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The American Political Science Review

VOL. XXXIV DECEMBER, 1940 NO. 6

THE CONTROL OF WAR PREPARATIONS IN THE UNITED STATES

CARL BRENT SWISHER

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A devastating war crisis is forcing government officials and political scientists to re-examine the efforts of the United States in 1917 and 1918 to adjust a peace-time democratic governmental establishment to the efficient conduct of war activities. That experience, until recently deemed an aberration in American history, is immediately relevant to the current program of national defense. Certain of the vital political problems of the war years are discussed in the following pages for the light which they shed on the present crisis. The discussion centers around the creation and control of emergency agencies for the performance of war functions. A prominent characteristic of governmental behavior was competition for power between the President and Congress, with victory usually in the hands of the President. Closely allied characteristics were the steady growth in the centralization of power as experience in the handling of war preparations was developed, and a progressive decline in the unwillingness of Congress to permit drastic interference with rights of liberty and property. The records show a tremendous amount of initial chaos. Superficially, at least, it seems that the experience of the war years has not yet been absorbed by those now responsible for the conduct of the government and that, whether or not it is necessary, much of the fumbling of 1917 and 1918 is now in process of repetition.

I

One of the emergency agencies first established and most frequently involved in political controversy was the Committee on

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Public Information, which was set up for the control of publicity. It owed its origin, not to an act of Congress, but to an executive order of April 14, 1917 (eight days after the declaration of war), issued pursuant to a request of the Secretaries of State, War, and Navy. The Committee was to consist of the three secretaries mentioned, or of persons delegated by them, together with a civilian chairman.[1]

Under the direction of George Creel, a magazine writer and former newspaper man who was appointed chairman, the Committee on Public Information operated as a loosely-knit and ever-changing but always powerful organization, in spreading information and propaganda and molding the beliefs of the American people. It published an organ called the *Official Bulletin* by which public documents and digests of information were circulated among the departments, bureaus, and offices of the government, displayed in postoffices, and sent to such subscribers as would pay the subscription price. The Committee had no direct power of censorship, but it exercised a restrictive influence in many ways. The Administration relied heavily on its judgment as to the information which should be given out. The chairman was given representation on the Censorship Board established under the Trading with the Enemy Act.[2] Furthermore, he was in such close contact with the Postmaster-General and other government officials in positions of authority that it was unwise for any publication to flout his policies.

Congress took no responsibility for the Committee on Public Information. At the time of the establishment of the agency it was said that Administration officials considered recommending to Congress a simple bill to give the Committee statutory authority to carry out its rulings.[3] Congress discussed the subject of control of information at length in connection with the omnibus measure which came to be known as the Espionage Act,[4] but, whether because of its own concern about the preservation of freedom of speech and of the press or because of pressure from the newspapers of the country, it did nothing to sanction the establishment of the Committee. Drastic censorship proposals were made and rejected, and Congress included no provision in the Espionage Act concern-

[1] *Official Bulletin*, May 10, 1917, p. 4. See also James R. Mock and Cedric Larson, *Words that Won the War; The Story of the Committee on Public Information, 1917–1919* (1939), pp. 48–51. [2] 40 *Stat.* 411.

[3] *New York Times*, Apr. 15, 1917. [4] 40 *Stat.* 217.

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ing an agency to control public information. Bills subsequently introduced for that purpose died in committee.[5]

The Committee on Public Information continued to function, in spite of the absence of legislative sanction, amid criticism from Congress and from the press. During most of the period of its existence its expenses were paid, not out of an appropriation made directly for its use, but out of a fund allotted to the President for use at his discretion for general defense purposes.[6] Its prestige would doubtless have been enhanced had Congress given it formal recognition, but it was not seriously handicapped by the lack of it. In the summer of 1918, Congress did recognize its legitimacy to the extent of making an appropriation for its expenses.[7]

II

Of the other committees, commissions, and administrations set up for war purposes, many had a common parenthood in the Advisory Commission of the Council of National Defense. Provision for the establishment of the Council of National Defense had been made in the Army Appropriation Act of 1916.[8] The Council consisted of the Secretaries of War, Navy, Interior, Agriculture, Commerce, and Labor. The Advisory Commission was to consist of not more than seven members nominated by the Council and appointed by the President. Each of these members was to have special qualifications, such as knowledge of some industry or public utility or the development of some natural resource. The Council was authorized to make investigations of industry and transportation as related to national defense and to make recommendations to the President and the heads of the executive departments.

The fact should be emphasized that as far as the cabinet officers serving on the Council of National Defense were concerned, the legislation gave them no important new powers. It merely provided an organization in which they might meet and coördinate the performance of their normal functions if war should be declared. Furthermore, the powers of the Advisory Commission did not go beyond the giving of advice. It was intended that the Commission

[5] 55 *Cong. Rec.* 3589, 3745, 4058. [6] *Ibid.*, pp. 5414, 5421.

[7] 40 *Stat.* 646. For an account of the varied restrictions on civil liberties during the period of the World War, see Carl Brent Swisher, "Civil Liberties in War Time," *Political Science Quarterly*, Vol. 55, pp. 321–347 (Sept., 1940).

[8] 39 *Stat.* 619, 649.

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should bring to the political officers of the government the information and the best judgment of men in the several branches of business and industry, but authority was left with the executive. The fact that Senate action was not required in connection with appointments is doubtless explained largely by the fact that no real powers were conferred upon the persons selected. It was a useful arm of the executive for the execution of authority already held. In May, 1940, President Roosevelt, acting pursuant to the same statute, revived the Advisory Commission to deal in the same advisory manner with the conditions of another crisis.[9]

In spite of its lack of formal authority, the Advisory Commission became an extremely important agency in organizing the country for war. It created large numbers of committees to assemble facts in terms of which production and transportation of war materials were to be planned. These committees educated personnel for the task of coördination. Some of them received broad powers through presidential order or provided the basis for the establishment of other agencies by executive order or by statute.

III

The organization of what came to be known as the Food Administration, one of the agencies that evolved out of the Advisory Commission, provoked a sharp conflict between the President and Congress. It was discovered during the summer of 1917 that the food supply of the country had already been curtailed by shipments abroad and by reduced production due to unfavorable weather conditions. The President decided that authority over the distribution of food ought to be allotted to a Food Administrator serving under direction of the President and responsible only to him. He had in mind for the task Herbert Hoover, who had already won fame through his management of Belgian relief.

In requesting the enactment of legislation, the President asked for power to fix prices both to encourage production and to secure consumers against extortion. He concurred in Hoover's belief that these objectives could be achieved through voluntary coöperation, but he nevertheless asked for full powers of enforcement, saying: "It is absolutely necessary that unquestionable powers shall be placed in my hands." He assured Congress that the regu-

[9] *New York Times*, May 29, 1940.

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lation was to continue "only while the war lasts." It was to be a demonstration of democracy at its best. "The last thing that any American could contemplate with equanimity would be the introduction of anything resembling Prussian autocracy into the food control in this country."[10]

In spite of pressure for hasty enactment, the measure was debated over a period of several weeks. A minority opposed it bitterly. Senator James A. Reed of Missouri declared: "The power demanded is greater than has ever been exercised by any king or potentate of earth; it is broader than that which is exercised by the Kaiser of the Germans; it is a power such as no Caesar ever employed over a conquered province in the bloodiest days of Rome's bloody despotism."[11] The bill was handicapped in the Senate by the opposition of Senator Thomas P. Gore, chairman of the Committee on Agriculture, who denounced the provision for one-man control. "I maintain it is unconstitutional legislation," he said. "It would turn over the business of our country to one individual."[12] The Constitution ought to be cherished in times like these, he argued, lest in other times of crisis it be needed to protect us against a dictator, "and to protect us against subserviency of a Congress that might be willing to lick the dust at the feet of such a dictator."[13]

The Senate at first refused to sanction the plan for an administrator chosen by the President alone and passed the bill with a provision for a Food Control Board of three commissioners, to be appointed by the President by and with the advice and consent of the Senate.[14] The bill as approved by the Senate left to the President the selection of the chairman of the board from the three commissioners, so that Mr. Hoover could still be placed at the head of the board if the Senate would accept him as one of the three commissioners. His authority would be subject to check by the other two commissioners, however, and the possibility of swift and vigorous action would be greatly reduced.

The Senate made its position on this part of the bill overwhelmingly clear. A proposal to return to the President's plan for a single administrator received the support of only ten votes as against sixty-three votes in the negative.[15] Another attempt was made, but

[10] Statement of May 19, 1917, *Messages and Papers of the President*, XVII, 8263–4. [11] 55 *Cong. Rec.* 3597.

[12] Edward M. Sait, "The Sixty-Fifth Congress," *The American Yearbook*, 1917, p. 13. [13] 55 *Cong. Rec.* 4459. [14] *Ibid.*, p. 5261. [15] *Ibid.*, p. 5265.

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the vote registered was sixty to twenty-three against the President's plan.[16] The President had won in the House of Representatives, however, and he was determined to win the battle in the conference committee. "If I can help it," he wrote to a friend, "'there ain't going to be no Food Control *Board*.' I think that it will come out in conference. It makes the bill practically unworkable."[17] Under pressure from him, a majority of the conferees accepted his decision. They had "received their orders," said Senator Gore, who refused to fall into line.[18]

Administration leaders sought to force the immediate acceptance of the report of the conference committee. "The lash, forever and eternally the lash, is laid across the legislative back," shouted Senator Reed in protest. "More and more we cringe. More and more we whine and crawl between the legs of those who master us."[19] The report was accepted. The President appointed Hoover to the position of Food Administrator, in which he exercised sweeping authority throughout the period of the war.

IV

In the form in which it originally passed the Senate, the Food Control Bill contained another provision which was highly objectionable to the President. It provided for a Joint Committee on Expenditures in the Conduct of the War, and represented the uneasiness of the Senate at the expansion of unchecked presidential powers. A precedent was found for a congressional check upon war expenditures in the fact that during the Civil War Congress had established a Committee on the Conduct of the War.[20]

The subject of congressional participation in the management of the war had been brought to the attention of the Senate on April 9, 1917, three days after the declaration of war. At that time Senator John W. Weeks, a Republican from Massachusetts, offered a joint resolution providing for a joint committee to be known as the Joint Committee on the Conduct of the War. The Committee was to "make a special study of the problems arising out of the war,"

[16] *Ibid.*, p. 5366.

[17] Ray Stannard Baker, *Woodrow Wilson* (1939), VII, 191.

[18] *New York Times*, July 31, 1917. [19] 55 *Cong. Rec.* 5802.

[20] For an account of the Civil War Committee, see T. Harry Williams, "The Committee on the Conduct of the War," *Journal of the American Military Institute*, Vol. 3, pp. 139–156 (Fall, 1939).

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and to "confer and advise with the President of the United States and the heads of the various executive departments." Senator Weeks explained that this was the general course followed during the Civil War. The Committee would furnish a direct connecting link between the executive and legislative branches of the government. This was no reflection on the president or the heads of departments. It was part of the duty of Congress to have some knowledge of methods by which the five or six billions of war appropriations would be expended and to determine whether expenditure was being made in accordance with the purpose of Congress.[21] The resolution submitted by Senator Weeks was referred to the Committee on Rules, where the Democratic majority rewrote it to limit it more specifically to consideration of expenditures and changed the title to Joint Committee on Expenditures in the Conduct of the War. The report of the Committee was adverse, however, and no further action was taken on the resolution.[22]

In the meantime, Senator Weeks offered the original draft of his resolution as an amendment to the food control bill.[23] When the amendment came up for consideration, Senator Owen, a Democrat, asked the substitution of the draft as reported out of the Committee on Rules, and Senator Weeks accepted the substitute.[24] With no debate whatsoever, a vote was taken and the amendment was adopted, 53 to 31.[25] The amendment was a part of the bill when it went to conference committee.

While the bill was in the hands of the conference committee, a Senate discussion of the Committee on Public Information wandered to the subject of the joint congressional committee. Senator Henry Cabot Lodge, of Massachusetts, brought up the subject as a reminder that Congress as well as the President was part of the government. "That seems an amazing statement to make," he said, "but we are part of the government under the Constitution, and I believe we have a right to know how the public money is spent. I say to you, the money that is being wasted in Creel's bureau[26] is perhaps a little thing, but nothing could be done more helpful to the President and the Administration than a strict

[21] 55 *Cong. Rec.* 459. An identical measure was introduced in the House of Representatives on the same day by Representative Madden. *Ibid.*, p. 497.

[22] Senate Report No. 102, 65th Cong., 1st sess.

[23] 55 *Cong. Rec.* 5231. [24] *Ibid.*, p. 5363.

[25] *Ibid.*, p. 5364. [26] The Committee on Public Information.

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watch of the expenditures by Congress. If these vast sums of money, vast beyond anything that was ever dreamed of before, are to be poured out by agents, many of whom are utterly unknown except perhaps for personal admiration wisely bestowed, or for petty political services, agents with no public responsibility, you are laying up a day of reckoning which we shall all deplore."[27] The discussion ended after some debate as to whether or not the Civil War committee had interfered with the management of the war by the Administration.

The President hurled the weight of his opposition against the proposal. The plan for the Joint Committee, he wrote to Representative Lever, would render his task of conducting the war almost impossible. "The constant supervision of executive action which it contemplates would amount to nothing less than an assumption on the part of the legislative body of the executive work of the Administration." He referred to the Civil War experience as an ominous precedent wherein President Lincoln had suffered distressing harassment. The proposed coöperation of Congress with the President was not practicable. "The responsibility rests upon the Administration. There are abundant existing means of investigation and of the effective enforcement of that responsibility."[28] He asked a friend in the Senate to aid in preventing his management of the war from "being put under an espionage committee."[29] The President was again victorious. The proposal for the Joint Committee of Congress was abandoned.

V

The President averted a possible struggle with Congress over methods of managing railroads by taking over control of the railroads of the country and establishing a railroad administration while Congress was in recess for the Christmas holidays at the end of 1917. Government operation of transportation lines had been recommended by the Federal Trade Commission in a report made on June 19, 1917.[30] The government was slow to act, no doubt partly because of a current movement for permanent government ownership and operation. The railroad field was one of many in which

[27] 55 *Cong. Rec.* 5420. [28] *New York Times*, July 24, 1917.

[29] Ray Stannard Baker, *op. cit.*, VII, 186, note 1.

[30] Anthracite and Bituminous Coal, 65th Cong., 1st Sess., Sen. Doc. No. 50, pp. 20–21.

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it was feared that the war might be used as a pretext for bringing about changes that would become permanent in spite of the opposition of conservative interests.

The railroads themselves had sought to bring about the necessary coördination of their facilities without resort to government control. Pursuant to the request of the Council of National Defense, leading railroad executives had met in Washington a few days after war was declared and established their own coördinating agency in the form of a committee called the Railroads' War Board.[31] A member of the advisory commission of the Council of National Defense and a member of the Interstate Commerce Commission were ex officio members of the Board. Throughout the remainder of 1917, the Board sought to bring about the maximum of coöperation among roads which had hitherto been encouraged to compete and had been denied the privilege of any high degree of coöperation. For a number of reasons, the Board was unable to bring about the desired coördination, and traffic congestion became one of the most serious problems connected with speedy preparation for war. Railroad finances, furthermore, were in a serious state, and the raising of funds for the railroads' use threatened to interfere with the floating of loans for government purposes.

On December 5, 1917, the Interstate Commerce Commission made a special report to Congress on the railroad situation. It recommended that the government take active steps to remove barriers to unification in private hands and give financial aid from the federal treasury, or take over the railroads and operate them as a unit during the period of the war.[32] On the following day, William Gibbs McAdoo, Secretary of the Treasury, urged the President to assume control of the railroads on the basis of a single sentence of authorization found in the Army Appropriation Act for 1916.[33] He recognized the inadequacy of the statute as a description of the way in which the railroads should be operated, but he recommended that control be taken first and additional legislation sought thereafter.[34]

The President postponed action until December 26, 1917, when

[31] See I. Leo Sharfman, *The American Railroad Problem* (1921), p. 77.

[32] J. P. Blair, "The Federal Railway Control Act of Mar. 21, 1918," *Southern Law Quarterly*, Vol. 3, p. 101. For the Interstate Commerce Commission Report, see 56 *Cong. Rec.* 1941–1942. [33] 39 *Stat.* 619, 645.

[34] Ray Stannard Baker, *op. cit.*, VII, 394.

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he issued a proclamation taking possession and assuming control of the railroads of the country as of December 28, 1917.[35] Administration was vested in the Secretary of the Treasury, William Gibbs McAdoo, not in his secretarial capacity, but in a new position as Director-General of Railroads. Existing statutes and orders of the Interstate Commerce Commission affecting railroads were to continue in operation, said the President's proclamation, but "any orders, general or special, hereafter made by said Director, shall have paramount authority and be obeyed as such."[36]

The statute under which the action was taken made no provision for the management of traffic on the roads or for compensation to the owners. It had been enacted, not with the expectation that all railroads would be taken over, but to insure the ability of the government to transport troops and equipment to the Mexican border if the occasion required.[37] Some additional legislation for the guidance of the government was obviously necessary. President Wilson appeared before Congress on January 4, 1918, to request the enactment of such legislation, and Administration bills to achieve the desired end were introduced simultaneously in both houses. There was sufficient disagreement concerning the measure to prevent the completion of enactment until March 21, 1918, but no substantial change was made in the organization for management of the railroads which had been set up by the President.

VI

In point of numbers, the government had all the organization it could conceivably need for the management of the war; yet plans went awry, programs of production and distribution broke down, frantic agencies got in each other's way, and competing government purchasing agencies fought for the possession of the same materials. Materials were said to have been carried to Europe, and then carried back again because of need for ballast in otherwise empty ships. Men trained for battle were sent abroad and had to be provided with clothing and guns by the Allies whom they went to assist. Hearings before the Senate Committee on Military Affairs disclosed gross inefficiency at critical points. In spite of the fact that criticism of the government was denounced as giving aid and comfort to the enemy, such criticism was voiced in Congress and publicized by the press.

[35] 40 *Stat.* 1733. [36] 40 *Stat.* 1734. [37] 56 *Cong. Rec.* 2372.

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The great need, it was said, was not for more agencies but for over-all supervision, coördination of activity from the top. The President, it was argued time and again, was already burdened with more responsibility than any man could possibly carry. He should be provided with right-hand assistance in managing the mass of organizations subject to his control. The Committee on Military Affairs did not return to the plan for a joint congressional committee to aid the President, but proposed the creation of a Ministry of Munitions and of a war cabinet of three men.

Senator George E. Chamberlain, of Oregon, chairman of the Committee on Military Affairs, who frequently asserted his independence of Administration leadership, called on the President to discuss means of coördinating and speeding up the military program. He mentioned a plan which he had in mind for the creation of a Munitions Ministry. On January 11, 1918, the President wrote to Senator Chamberlain opposing the plan and saying in part: "I have had in the last few months a great deal of experience in trying to coördinate things, and upon every fresh coördination delay inevitably results, and not only delay, but all sorts of cross currents of demoralization which are very serious impediments to the effective conduct of business." He spoke of evidence that munitions ministries on "the other side of the water" had not fulfilled expectations, and added that "the structure of those governments is so utterly different from our own that we could not, if we would, create any such parity of power and influence between the head of such a bureau and the heads of the permanent departments as can be created under such political arrangements as the French and English."[38]

The Senator was not convinced. In a speech delivered in New York, on April 19, he declared that the military establishment had fallen down and had almost stopped functioning because of inefficiency in every bureau and department of the government. Congress was trying to centralize in one man power of supplying the army. "We have reported a bill, following the experience of Great Britain and France, creating a director of munitions for this purpose. We have gone one step further, and we have provided a bill for the creation of a cabinet of war, whose duty it shall be to lay out what we never have had, and have not now—a program to carry on this war to a successful conclusion. My friends, this is not an

[38] *Ibid.*, p. 1207.

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Administration measure; it is an American measure, and comes from Republicans and Democrats alike."[39]

The President answered the Senator through the press, saying that the statement was "an astonishing and absolutely unjustifiable distortion of the truth." There had been delays and disappointments, he admitted, but the War Department had performed a great and difficult task with extraordinary promptness and efficiency. Reorganization measures based on experience had already been worked out and were "much more likely than any others to be effective, if the Congress will but remove a few statutory obstacles of rigid departmental organization which stand in their way. The legislative proposals I have heard of would involve long additional delays and turn our experience into mere lost motion."[40]

Under the War Cabinet Bill introduced by Senator Chamberlain, that Cabinet was to consist of "three distinguished citizens of demonstrated executive ability," who were to be appointed by the President with the advice and consent of the Senate. It was to work out and execute plans for the effectual conduct of the war and supervise, coördinate, and direct the functions of other executive agencies of the government for that purpose. Although its activities and decisions were subject to the review of the President, it seemed clear that if the bill were enacted it would delegate to the War Cabinet many of the reins of authority which the President had hitherto jealously kept in his own hands.[41]

Publication of Senator Chamberlain's speech and the President's statement to the press, together with correspondence between the two men, resulted in angry discussion of the bill and the issues. Senator Gilbert M. Hitchcock, another Democrat who frequently asserted his independence of the Administration, made a speech in the Senate in which he disclosed findings of a congressional investigation showing "confusion of authority, red tape, circumlocution, and incapacity" found in the War Department.[42]

Although the President had staunch defenders in Congress, it began to appear that criticism of delay and apparent inefficiency in getting ready for active participation in the war might result in the enactment of legislation to which the President was opposed. Under

[39] *New York Times*, Jan. 20, 1918, quoted, 56 *Cong. Rec.* 1195.
[40] *Washington Herald*, Jan. 22, 1918, quoted, 56 *Cong. Rec.* 1196.
[41] See S. 3583, 56 *Cong. Rec.* 1077–1078. [42] 56 *Cong. Rec.* 1607 ff.

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his direction, therefore, a bill was prepared authorizing him to coordinate or consolidate executive agencies for the period of the war and to create new agencies by executive order to which functions might be transferred. The Democratic floor leader thought it gave the President too much power and refused to introduce it.[43] Senator Lee S. Overman introduced the bill, which thereafter bore his name. It was referred to the Committee on the Judiciary, of which he was chairman.

The introduction of this Administration bill had the desired effect of postponing further consideration of the measures to which the Administration was opposed. It stirred great excitement in the Senate and in the press. Senator Hitchcock declared that it "would mean nothing but an abdication by Congress of its law-making power."[44] Senator Reed Smoot thought there would be nothing left but to make the President a king.[45] Other Senators sputtered about the proposed congressional abdication of power. The *New York Times* said of the bill: "It outstrips in its delegation of power the authority contemplated in the War Cabinet Bill and the measure for a Director of Munitions together."[46]

The more violent protests against the bill took their tone from a provision which authorized the President to create new agencies by executive order and "to vest therein the performance of such functions as he may deem appropriate." This drastic provision was eliminated by the Judiciary Committee. Other changes of lesser importance were made in the bill, and information was circulated that the principal desire of the President was to have unrestricted power for effective coördination of the War Department. The measure came to a vote in the Judiciary Committee on the last day of February. In spite of the fact that the President, in conferences with individual senators, had urged enactment of the measure, the Committee vote was a tie. Three weeks passed before the tie was broken and the measure reported favorably. Debate was prolonged, and it was not until May 20, 1918, that the Overman Act received the President's signature.[47]

Under the powers of reorganization conferred by the Overman Act, the President brought about a number of changes in the government establishment. The principal change, which had to do

[43] *New York Times*, Feb. 7, 1918. [44] *Ibid.*, Feb. 7, 1918.
[45] *Ibid.*, Feb. 8, 1918. [46] *Ibid.*, Feb. 7, 1918. [47] 40 *Stat.* 556.

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with the War Industries Board, was decided upon and actually initiated some weeks before the Act was passed. The powers of the Board, or of its chairman, were expanded and its position was strengthened as a coördinating agency. The Board had originally been in the form of a committee under the Council of National Defense, by which it had been organized. It was therefore in no position to give orders to the Secretary of War or to other members of the Council. On March 4, 1918, while the Senate Judiciary Committee was deadlocked over the bill, the President wrote a letter to Bernard M. Baruch asking him to accept the chairmanship of the War Industries Board. The letter gave to the chairman full power and responsibility in most matters with the important exception of price-fixing, leaving the remaining members chiefly as advisers to the chairman. The President outlined the functions of the Board and the duties of the chairman as if it were now independent of the Council of National Defense. To all intents and purposes, it became independent immediately as a result of the President's letter. It achieved formal independence after the Overman Act was passed, when the President issued an executive order establishing the Board as "a separate administrative agency to act for me and under my direction."[48]

In tearing the War Industries Board away from its creator—the Council of National Defense—and establishing it as an independent administrative agency, the President may have violated the spirit of the Overman Act, in view of the fact that the authorization to create new agencies and transfer powers and functions to them had been stricken from the bill. However that may be, the Board, through Chairman Baruch, became an extremely powerful agency during the last months of the war. Grosvenor B. Clarkson, the historian of the Board, has said that through it the United States "had in the end a system of concentration of commerce, industry, and all the powers of government that was without compare among all the other nations, friend or enemy, involved in the World War."[49]

Part of the results achieved by the Board were brought about through priority regulations by means of which it guided both pro-

[48] Executive order of May 28, 1918. The letter of Mar. 4, 1918, was included as a part of or an appendix to the order. *Messages and Papers of the Presidents*, XVIII, 8518–8519.

[49] Grosvenor B. Clarkson, *Industrial America in the World War* (1924), p. 63.

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duction and distribution. It "said what should be produced and where, and it said who should have the product."[50] The chairman of the Board and the Price-fixing Committee worked out in coöperation with industry the prices which the government was to pay for commodities. The prices fixed were high, allowing substantial profits to industry, but they were not as high as they would have been without control through negotiation. Taxes on income and on excess profits operated further to make industry the servant of the government for the purpose of winning the war. No attempt was made to test the limits of the legal authority of the Board. Some thought that such authority was broad, others thought it narrow. Much of its control was exercised through coöperation with industry and with the government agencies it was authorized to coordinate. In terms of results, it smoothed out many of the tangles of production and purchase and delivery, so that by the date of the Armistice the nation had machinery which functioned with relative smoothness for war purposes.

VII

The illustrations presented above, and many others not enumerated here, show that for the most part the President was able to secure the organizational set-up he wanted for the conduct of the war. In some instances, as in that of the establishment of the Council of National Defense, he found clear authorization in statutes previously enacted. In other instances, as in that of railroad control, he found statutes which gave at least a certain amount of plausible authority for doing what he wanted to do. In some instances, legislation was speedily enacted at his request. In other instances, as in the matter of selecting Herbert Hoover to be Food Administrator, and as in the matter of making Bernard Baruch virtual Director of the War Industries Board with augmented powers, he acted in advance of legislation which was finally enacted. He had struggles with Congress from time to time, but in each case he finally won his point.

The great number of organizations set up during the early weeks of the war were advisory organizations established in connection with and subordinate to the Council of National Defense. The purpose was to promote efficient operation of permanent government agencies for war purposes by providing information and advice.

[50] *Ibid.*, p. 154.

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The early advisory organizations were in constant process of change, but in no form did they have any considerable amount of legal authority. No doubt largely because of this lack of authority on their part, Congress made little or no attempt to interfere with them. Their value as advisers to the government, however, as it got under way with types of control wholly new to its experience, was very great.

As plans for more stable organization began to take shape in the minds of the President and his staff, substantive authority was given to a number of emergency agencies such as the Food Administration, the Fuel Administration, the Censorship Board (established under the Trading with the Enemy Act), the Railroad Administration, the War Industries Board, and others. With the conferring of such authority, Congress began to show jealousy of its own prerogatives. It sought to exercise control by seeking Senate participation in appointments and by urging the establishment of boards rather than one-man agencies. In situations where the tasks to be performed were largely judicial in character, as in the instance of the National War Labor Board, the President accepted the board form of organization as adequate. Where the task was largely administrative, however, and where speed in the achievement of results was important, as in the instance of the Food Administration, the Fuel Administration, and the War Industries Board, he determined, either initially or at a later date, to have responsibility lodged in one man.

From the beginning to the end of the war, the President kept the maximum amount of control in his own hands. It was widely believed that he attempted to handle more matters than could possibly be dealt with adequately by any one man. It was charged, therefore, that he was responsible for the slowness with which the United States equipped itself for full participation in the war. While he may have had in contemplation for some time the lodgment of broad authority in the chairman of the War Industries Board, such action was forced upon him by the threat of congressional action to create a Ministry of Munitions or a War Cabinet.

VIII

The significance of World War experience for present-day preparations for national defense and possible war is not easily appraised. It is perhaps an important fact that although it is widely assumed

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that the Administration in power is molding public opinion in harmony with its national defense policies, the Administration has avoided calling attention to any such activity by establishing a Committee on Information or its counterpart. The fact may be an outgrowth of experience with the Committee on Information during the World War, or it may merely represent the innate political shrewdness of persons now in positions of authority—or it may mean merely that the time has not yet arrived for the establishment of such an agency.

As to plans for the mobilization of resources, many conditions are substantially different from those which prevailed in 1917. Whereas at the time of our entrance into the World War only a brief period of study had been given to the organization of national resources for war purposes, the War Department since that time has been making a continuous study of the problem. Plans have been worked out and modified from time to time as experience seemed to dictate. So-called "educational" orders have been placed with manufacturing plants so as to develop experience in the manufacture of war materials and make possible a rapid transition from peace-time production to the manufacture of war materials. For some weeks in 1939, a War Resources Board met in Washington for confidential discussion of plans to mobilize industry in time of war.[51]

Yet the value of these preparations should not be over-emphasized. The advance placement of educational orders loses its importance to the extent that the materials ordered become obsolete in the current experience of military conflict. As for the War Resources Board, its report has not yet been made public, and there is reason for believing that important recommendations included in it are not being followed. No amount of study has value unless its results are utilized. Observation of current activities in Washington leads to the conclusion that chaos prevails almost to the same extent as in 1917. The change in personnel since the period of the World War is almost complete, and it is perhaps inevitable that new leaders should develop efficiency only after rough and tumble contact with actual war preparations. It would alleviate the tragedy of

[51] See Harold J. Tobin and Percy W. Bidwell, *Mobilizing Civilian America* (1940). See also Randall B. Kester, "The War Industries Board, 1917–1918; A Study in Industrial Mobilization," in this REVIEW, Vol. 34, pp. 655–684 (Aug., 1940).

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waste, however, if some of the experience could be acquired vicariously—if the experience of other years could be more fully utilized by new personnel to gain understanding of recurrent problems involved in the management of war activities.

In discussing the mobilization of industry in an address delivered on May 27, 1940, Herbert Hoover urged the creation of a Munitions Administration in Washington. He urged that it be placed under one man, who should be an industrialist and not a politician. "The whole genius of the American people has demonstrated over 150 years," he said, "that when we come to executive action, including the office of the President of the United States, we must have single-headed responsibility. It is just as foolish to set up a board to conduct munitions business as it would be to set up a board to conduct the presidency of the United States."[52]

Ignoring the advice of his predecessor in office, however, and acting seemingly in defiance of the lessons to be drawn from World War experience, the President created neither a single-headed administration nor a board, but instead revived the Advisory Commission of the Council of National Defense, acting pursuant to the 1916 measure under which such an agency had functioned during the World War period.[53] This commission, like its predecessor, is purely advisory. Legally, it is responsible to the six members of the President's cabinet who under the statutes make up the Council of National Defense. Actually, the President seems to expect that the Commission will be responsible to himself alone, and he may delegate to the members individually a degree of responsibility not held by their predecessors. The commission is not otherwise organized for action as a unit, however, and authority can be shifted and personnel changed at a moment's notice.

Wendell L. Willkie, as Republican candidate for the presidency, bitterly attacked the President for inadequate preparation for national defense and for failure even to appoint an active head for the Advisory Commission.[54] Others less partisan in a political sense have echoed the same criticisms. Yet, to charge the President with a complete disregard of the lessons of the World War, in which he was a participant, is to overlook certain facts. Sweeping powers were given to the War Industries Board only after policies were

[52] Address by Herbert Hoover, *New York Herald-Tribune*, May 28, 1940.
[53] *New York Times*, May 29, 1940.
[54] See, for example, *ibid.*, Oct. 3 and 5, 1940.

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well worked out. Current defense policies are in obvious flux and are likely to remain so for a considerable time. To create a rigid defense organization which would get in the way of the determining of policies by the chosen leaders of the country would be a serious error in tactics. To put a defense organization in the hands of a dynamic and influential industrialist, furthermore, however successfully it might promote the defense program, might interfere seriously with the social program of the Administration. Whatever the attitude of the observer toward that program, he will hardly expect its sponsor to abandon it unless compelled to do so.

Another consideration is important. The immediate creation of a powerful defense agency would probably have required the enactment of a new statute. No doubt the President could have secured such action from Congress. Yet from the point of view of strategy, it is quite in harmony with the experience of the World War to avoid seeking legislative action whenever possible. Such avoidance may be labeled as undemocratic—but it frequently saves trouble![55] Woodrow Wilson learned the lesson before the World War when he tried unsuccessfully to have Congress sanction his program for arming merchant ships, even though he believed that he already had the necessary power.[56] During the war, as for example in the assumption of the control of railroads, he willingly put Congress in a position where it had to ratify steps which he had already taken. President Roosevelt, from the beginning of his administration, showed himself no less of a strategist in the manipulation of Congress. It is to be expected that in the handling of the defense program even such difficulties with Congress as were experienced by President Wilson will be few and far between. As for the defense machinery to be set up, it is likely to operate, and presumably should operate, in complete subordination to the President and his personal staff. The choice of personnel, the allotment of authority, and the arrangement of the administrative machinery will be determined in part, not by principles which would bring the maximum of efficiency within each agency standing alone, but by the desire to keep it submissive to the will of the President and adaptable to his program as a whole.

[55] The arrangement for the sale of obsolete destroyers to Great Britain without congressional sanction is a case in point.

[56] See Ray Stannard Baker, *op. cit.* (1937), VI, 471 ff.

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DECREE POWERS AND CONSTITUTIONAL LAW IN FRANCE UNDER THE THIRD REPUBLIC

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In the World War period and after, the use of extraordinary powers by the executive for legislative purposes became so widespread in Europe that constitutional theorists began to find it convenient to give up the doctrine of legislative supremacy. The constitutional basis for these extraordinary powers has been found in one of two ways: either the parliament may authorize the government to exercise certain legislative functions by way of delegation, or certain provisions in the constitution may be interpreted as giving the executive the right under certain circumstances not only to take specific administrative steps, but also to issue rules of a more general character.[1] In either case, the question invariably arises as to how far the delegation of power may go, or as to the degree to which alleged constitutional emergency provisions may be used to supersede parliamentary legislation.

In France, no constitutional emergency power is provided in the "organic" laws of 1875 which could give a starting point for independent rule-making activity. A law of April 3, 1878, defined very closely the conditions under which a state of siege may be declared and surrounded such a declaration with elaborate provisions for parliamentary supervision. It is apparent that this statute does not allow the government to decree rules of a general character.[2]

The possibility of an executive power lacking a parliamentary vote of confidence, the so-called *Praesidialregierung*, which German

[1] It is a merit of the interesting article by F. M. Watkins, "Constitutional Dictatorship," in Friedrich and Mason (eds.), *Public Policy* (Cambridge, 1940), p. 355, to have sharply separated both issues, the original constitutional emergency powers and the parliamentary enabling acts.

[2] The "state of necessity" theory, which is also used sometimes to justify governmental activity in fields reserved to the legislature, gained some favor with the Conseil d'État in the immediate post-war period in order that it might uphold governmental war measures running counter to statutory limitations in the interest of the national well-being; see, e.g., the decision in the Heyriès case printed in M. Hauriou, *Jurisprudence Administrative* (Paris, 1929), I, p. 78. But the application remained restricted to cases arising from war emergencies. In Coudert and Arrighi, *Recueil Général de Jurisprudence* (S), (1937), III, p. 33, commented on by Mestre, the use of the state of necessity theory is disavowed in discussing the decree laws of 1934.

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theorists in the pre-Hitler period tried so hard to establish, could therefore never find a legal basis in France. The history of French enabling acts begins, interestingly enough, with failures. In December, 1916, the Briand government requested power to issue all decrees necessary for the conduct of the war, but was forced to abandon the bill in the face of the manifest hostility of the Chamber.[3] The second attempt was made by Poincaré in 1924. In a discussion which dragged out for five weeks, Poincaré argued that, in the final analysis, it is in the interest of parliamentary government that the Chamber sometimes accept a temporary restriction of its constitutional rights. When economies must be made quickly, he contended, Parliament loses precious time because of conflicting interests and long debates.[4] Poincaré did, however, insist on limiting the subject-matter upon which the government might issue decrees. Strong opposition came not only from the extreme left, but also from such moderate statesmen as J. Paul-Boncour and E. Herriot, who insisted on the incompatibility between parliamentary government and the concession of such broad discretionary powers to the executive.[5] The bill was passed, although with reluctance. It allowed the government to issue decrees for administrative reorganisation in the interest of economy, during a period of four months. Before the cabinet could issue any decree, however, elections were held bringing in a new government, which did not use the enabling powers.

[3] The whole development until 1924 is very adequately treated in H. Tingsten, *Les Pleins Pouvoirs* (Paris, 1934), trans. from the Swedish. See also René Ladreil de Lacharrière, "Le système des décrets lois et le régime parlementaire," in *Revue d'Histoire Politique et Constitutionelle*, Vol. 3 (1939), pp. 122–150, which should be used with caution, however, because the author deals with the subject without any regard for the underlying social problems, and is chiefly interested in proving the feasibility and constitutionality of government by decree. A short history of decree legislation is to be found also in W. R. Sharp, *The Government of the French Republic* (New York, 1938), pp. 133–137. See also K. Loewenstein, "The Balance between Legislative and Executive Power," *University of Chicago Law Review* (1938), pp. 566–608, and S. B. Jacoby, "Delegation of Powers and Judicial Review," *Columbia Law Review* (1936), pp. 871–907. R. Bonnard, "Le droit public et la guerre," *Revue du Droit Public*, Vol. 56 (1939), pp. 549–647, and Vol. 57 (1940), pp. 90–125, gives a rather uncritical description of the constitutional developments since 1939. The article, however, is valuable on account of its wealth of documentation.

[4] Session Ordinaire, Chambre, 1924, p. 326. Similar arguments were later brought forward by Laval, Sess. Ord., Chambre, 1935, p. 1818.

[5] Sess. Ord., Chambre, 1924, pp. 338 seq., 477 seq.

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After the failure of the Briand-Caillaux government to obtain an enabling act in June, 1926,[6] Poincaré returned to office and on August 3, 1926, received power, without time limit, to adjust all kinds of custom duties to the new value of the franc and, further, to reorganize the administration by December 1.[7] But decree powers first became a permanent feature of French government in 1934.[8] The Doumergue-Tardieu "national unity" government tried to pursue a deflationist policy. Since this was opposed by labor and the bulk of civil servants, and would have met serious resistance from Parliament, which had been elected in 1932, the cabinet requested *pleins pouvoirs*. This was granted by a vote of 338 of the right and center parties to 185 of the left, with 40 abstentions.[9] The enabling provision, Article 36 of the budget law, went into effect on February 28, 1934, and terminated on June 30. The language of the act is more vague than that of the Poincaré statute. The stated purpose is the "taking of all measures necessary to balance the budget." The Chamber's resistance to the deflationary policy which the Bank of France forced upon the subsequent Flandin and Buisson cabinets led the Chamber to the refusal of *pleins pouvoirs*.[10] From the struggle over deflation, the Bank of France emerged victorious in the end. On June 8, 1934, by 324 votes of the right and center parties against 160 votes from the left, and 106 abstentions,[11] the Laval government was authorized to "take until October 31, 1935, all dispositions in order to avoid the devaluation, to fight against speculation, and to defend the franc." The whole parliamentary battle over the decree power was fought in remarkable contrast to the tactics of the parliamentary opposition in the twenties. In 1934, there was no battle over principles or in defense of parliamentary rights. The question debated was not whether decree powers ought to be granted at all, but whether such powers should be granted to a specific government and to

[6] See Lacharrière, *supra*, p. 130.

[7] The decree laws of Poincaré are discussed by Roger Bonnard in "Les décrets-lois du Ministère Poincaré," in *Revue du Droit Public*, Vol. 44 (1927), pp. 248–288.

[8] The Daladier cabinet, 1933, inserted an enabling clause restricted to administrative reforms and economies in the minimum amount of 300 million Poincaré francs into Article 8 of the budget act of December 22, 1933, but resigned before taking any action. [9] Sess. Ord., Chambre, 1934, p. 674.

[10] For the history of this crisis, see A. Dauphin-Meunier, *La Banque de France* (6th ed., Paris, 1936), and Paul Einzig, *World Finance, 1935–37* (New York, 1937), p. 47 seq. [11] Sess. Ord., 1934, Chambre, p. 1829.

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further specific aims. In fact, the use of decree powers was now taken for granted.

The Laval decrees were issued during the recess period. They not only introduced a complete deflationist program where the principle of the inviolability of private obligations was no deterrent, but went far beyond the limits of the economic policy prescribed by the enabling act itself. The decrees issued on the last day before the expiration of the *pleins pouvoirs*, October 30, 1935, covered the most varied subjects, and even a benevolent interpretation would find it often difficult to discover the link with the aims set forth in the enabling act.[12]

When the Blum government came upon the scene after the victory of the *Front Populaire* in June, 1936, it refrained for a whole year from asking for *pleins pouvoirs*.[13] Thus, for its new social legislation, for its proposal to change the statutes of the Bank of France, for the introduction of the *Office du Blé* (Grain Board), it chose to use regular parliamentary procedure and to leave only the execution of details to administrative regulation. In June, 1937, the government finally asked the chambers for *pleins pouvoirs* so that it might cope with the new financial difficulties which had arisen. These *pleins pouvoirs* would be used to raise taxes, permit further devaluation of the franc, and put the principle of exchange control into effect. The Chamber granted these powers by a vote of 346 from the left (including Radical Socialists) against 248 of the right and center and 11 abstentions.[14] However, the Senate majority realized that, after the reorganization of the Bank of France and the resultant decrease in the possibility of overthrowing a government by the Bank's refusal to rediscount treasury bonds, the flight of capital and the strain on the gold reserves would remain the deadliest weapon which the opposition could marshal against left governments. Therefore the Senate substituted its own enabling

[12] The Laval decrees of October 30, 1935, and the reports to the President of the Republic explaining and motivating the decrees occupy 300 pages in the *Journal Officiel* of October 31, 1935. They range from salary cuts and forced rent decreases to improvements in child welfare service and a more vigorous prosecution of those aliens who, unable to obtain permission to enter other countries, forcedly remained in France.

[13] On the reasons for this abstention, see the remarks of Lindsay Rogers, in "Personal Power and Popular Government," in *Southern Review*, Vol. 3 (1937), p. 232, and "M. Blum and the French Senate," in *Polit. Sci. Quar.*, Vol. 52 (1937), pp. 321–339.

[14] Sess. Ord., Chambre, 1937, p. 2048.

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bill giving the government practically no power at all (188 votes of the right Senate majority against 72 of the left and 40 abstentions).[15] The government preferred to resign.[16] On June 30, 1937, the Chautemps cabinet obtained *pleins pouvoirs* until August 31 by 374 to 206 votes in the Chamber (28 abstentions) and 160 to 78 in the Senate (59 abstentions).[17] It was at once apparent that this enabling bill had a feature totally different from its predecessors (and also from its successors). We give the full text: "The Government is authorized until August 31, 1937, to take by decree adopted by the Council of Ministers all measures to assure the repression of attempts to undermine public credit, to fight against speculation, to further economic recovery, price control, budget balancing, and *without control of exchange* to defend the gold holdings of the Bank of France." The decrees must be placed before Parliament for ratification within three months following the promulgation of the act, or, at any rate, at the first extraordinary session of 1937.[18] For the first time in the history of the French enabling acts, we find a clause explicitly forbidding a certain form of governmental action. In contrast to the usual practice of an enabling act following the victory of one political group over the policy and ideas of their opponents, this act rested on a compromise between different political groups. It was the expression of a delicate balance of power. The conservative elements were not yet strong enough to make a frontal attack on the social policy of the *Front Populaire* and to dislocate it, but they were strong enough to dictate some of the most important features of the general economic policy of the cabinet; though the presence of Socialists in the cabinet was a guarantee that the social reforms would be preserved for the time being. This compromise character can be seen in the written promise, embracing a six-point program, which the President of the Council, Chautemps, and his finance minister, Bonnet, were forced to give to the Senate before the latter granted the *pleins pouvoirs*.[19]

[15] Sess. Ord., Senate, 1937, p. 695.

[16] As one of the arguments in favor of his enabling bill, Blum (Sess. Ord., Chambre, 1937, p. 1979) had promised that, unlike previous governments (Laval), he would not attempt to issue decrees while the chambers were in recess. But it is evident that the constitutional arguments played a distinctly secondary rôle. See, e.g., Flandin, Sess. Ord., Chambre, 1937, p. 1969, and Reynaud, *ibid.*, p. 1972. The proposed policy is the only issue of importance.

[17] Sess Ord., Chambre, 1937, p. 2104; Senate, 1937, p. 730.

[18] *Journal Officiel* of July 1, 1937.

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In March, 1938, Blum returned to power for a short period; but when he asked for an enabling act to continue the *Front Populaire* program, even though modified to meet the needs of national defense, he once again met the hostility of the Senate. By a vote of 214 to 47 and 37 abstentions, it defeated his enabling bill, which had obtained an affirmative Chamber vote (311 to 250, with 42 abstentions).[20] During its initial stages, the next (Daladier) government followed the compromise lines of the previous year and justified its request for an enabling act, not by the necessity for structural changes in French economic or labor legislation, but by immediate budgetary and national defense needs. The compromise character is revealed by the virtually unanimous vote (Chamber: 514 to 8, with 76 Communist abstentions; Senate: 290 to 0, with 75 abstentions).[21] The enabling act was passed on April 12, 1938, giving the government power to take all measures necessary for national defense and the economic recovery of the nation. The powers were to be terminated at the end of the session, not later than July 31, 1938. The decrees which the Daladier government issued under this enabling act were in no way restricted to immediate aims. Although Parliament was in session until June 17, a comparison between the legislative work accomplished by it and the rules issued under the decree power shows that Parliament had lost almost all significance as a legislative body.[22]

[19] The promise which the government made to the Senate was read and commented on in the Senate by Abel Gardey, who, with Caillaux, was the chief parliamentary leader of the senatorial opposition to the *Front Populaire*. Sess. Ord., Senate, 1937, p. 718. Material on analogous "compromise enabling acts" in the earlier years of the Weimar Republic may be found in Poetzsch-Heffter, *Jahrbuch des öffentlichen Rechts*, Vol. 12 (1925), pp. 212 seq. See also F. M. Watkins, *The Failure of Political Emergency Powers under the German Republic* (Cambridge, 1939), p. 76.

[20] Sess. Ord., 1938, Chambre, p. 1183; Senate, p. 562.

[21] Sess. Ord., 1938, Chambre, p. 1183; Senate, p. 562.

[22] Here is a brief indication of *some* of the matters on which the *Journal Officiel* of June 26 and 29, 1938, contains regulations issued in pursuance of the enabling act (though somewhat similar smaller groups of decrees had already been issued on June 15, 17, 18, and 19): public utility regulations, treatment of vagabonds, surveillance of private aid societies and welfare institutions, reorganization of the French Red Cross, regulation of broadcasting, reorganization of seamen's social security benefit, reorganization of state architectural services, institution of a medical service for students, reëstablishment of criminal "relegation" to Guiana (abolished under Blum), reform of local finances, coördination of transportation system, gold production in colonies, repression of spies, organization and functioning of national and regional agricultural credit institutions, modification of custom

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The turn away from a policy of compromise, already evident in summer, became much sharper in October, 1938, when, after his return from Munich, Daladier asked for new decree powers. On October 1, these were granted by the Chamber until November 15, with a vote of 331 to 78 Communist votes and 203 (mostly Socialist) abstentions,[23] "in order to bring about an immediate recovery in the financial and economic situation of the country." The decrees issued in consequence of this enabling act attempted to reconcile the reëstablishment of a greater liberty for employers and of the investing public in general with efficient war preparation. Both motives led to a virtual nullification of all the essential features of the Blum social reforms.[24] In the three-and-one-half-month in-

duties, reorganization of the military hierarchy, amelioration of agricultural laborers, housing conditions, agricultural professional training, amelioration of fiscal efficiency, agreement with the Bank of France, and introduction of administrative surveillance of privately owned historical documents. Compared with this sampling of regulations issued in one batch in accordance with the enabling act on June 17, 1938, the *whole* legislative output of the French Parliament in June, 1938, amounted to the following: modification of one article of a statute in regard to military pensions (*J. O.*, June 14), a statute containing some budget modifications and a statute on the exercise of veterinary surgery (*J. O.*, June 22), a statute disjoining one rural community from canton X and transferring it to the jurisdiction of canton Y, a statute for avoiding double tax imposition on profits in Tunis and France (*J. O.*, July 25), two statutes ratifying earlier decrees, two statutes giving the War Ministry more Légion d'Honneur crosses for distribution (*J. O.*, June 27 and 28), a statute regulating the exercise of property rights over apartment houses belonging to several persons and a statute on obligatory anti-diphtheria vaccination (*J. O.*, June 30), extension of accident insurance regulations in Alsace-Lorraine to people working in hospitals and modifications of earlier accident insurance rules (*J. O.*, July 2), a statute creating two new administrative positions (*J. O.*, July 8), ratification of a commercial treaty with Germany, and ratification of two other decrees (*J. O.*, July 9 and 10).

[23] Sess. Extraord., 1938, Chambre, p. 1598; Senate, p. 736. No new constitutional arguments were brought forth in the discussion. The speech of Daladier, Sess. Extraord., Chambre, 1938, p. 1553 seq., gives no constitutional justification for his demand. The Socialist speaker Philippe reminded the Chamber of the abuse of decree powers by Brüning and complained that Parliament is always dismissed as soon as possible. *Ibid.*, p. 1547. Abel Gardey, Sess. Extraord., Senate, 1938, p. 730, particularly stressed the promise not to institute an exchange control, and he also quoted a promise by the government not to issue decrees on matters not directly connected with financial recovery. As for constitutional arguments, he appeased the republican conscience of his brethren by emphasizing the temporary character of the power.

[24] See the report of Paul Reynaud, minister of finance, to the President of the Republic, which accompanied the publication of the decree laws of November 12, 1938, in *J. O.*, November 13, pp. 12855–12861. An unofficial English translation may be found in the (London) *Economist* of November 19, 1938, p. 363 seq.

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terval between the lapse of the second Daladier enabling act and the German occupation of Prague, the government made use of a reorganization clause inserted in a decree law of November 13, and consolidated in article 61 of the budget law of December 31, 1938, to carry on the uninterrupted stream of decree legislation. After the occupation of Prague, the cabinet, which had won a large following by its vigorous suppression of the general strike of November 30, asked for a third enabling act. By a vote of 321 from the right to 264 from the left, it received new emergency powers until November 30, 1939. It was authorized to "take all measures necessary for the defense of the country." In the debate, Daladier did not put forth a well defined policy; instead, he argued for the necessity of the enabling act by stressing the advantages which authoritarian governments had against democratic government—independence, rapidity, and secrecy of action.[25] The decrees issued under this new enabling act accentuated the features of war preparedness and buried the last vestiges of the Blum social policy under the impact of the approaching war.

Daladier's fourth enabling act of December 8, 1939, dropped the last important limitation which had still been present in earlier acts, the closely defined time limit. The enabling clause was inserted into Article 36 of the statute of July 12, 1938, on the General Organization of the Nation in Time of War. This statute, as amended by Parliament on December 8, 1939, authorizes the government in urgent cases "to take by decree adopted by the Council of Ministers all measures imposed by the exigencies of national defense."[26] By voting this enabling act 309 to 189 (chiefly Socialists), with 56 abstentions and 47 Communists and Alsatian Separatists under arrest and therefore barred from voting, the Chamber (not without utterance of serious misgivings) for the first time in the history of the Third Republic conferred emergency powers on the government which it could invoke at any moment as long as hostilities were going on. This enabling act resembles rather closely the ill-fated emergency powers of Article 48 of the Weimar Constitution, in that the government was now at liberty not only to issue decrees without being specifically empowered to do so, but also without the hindrance of the rather narrow time limits usual with enabling acts. In fact, from 1934 we can trace a gradual eclipse of

[25] *Le Temps*, March 19, 1939. [26] Cf. Bonnard, *Le droit . . .*, pp. 565–568.

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parliamentary legislation which becomes increasingly marked as the years go on. In 1928, government decrees were still confined to narrowly limited fields, and even the Doumergue and Laval emergency powers were tied to concrete objectives in intent, although tending in fact towards all-embracing objectives. Daladier's régime marks the completion of this change. The objectives to be attained by decree procedure became a secondary consideration. Decree powers are required as the process of parliamentary legislation is declared incapable of withstanding the competition of fascism's unrestricted governmental action.[27]

Before entering upon a discussion of the constitutional features of the transition from parliamentary to executive legislation, we must consider the restraints placed on governmental legislative activity by judicial bodies. The doctrine accepted by all French courts that they have no right to examine the constitutionality of laws has not undergone any change since the recent practice of enabling acts and decree laws came into effect.[28] In the case of Coudert and Arrighi,[29] concerning forced pensioning of officials in pursuance of decrees issued by virtue of the 1934 enabling act, the Conseil d'État closed all avenues to a determination of the constitutionality of enabling acts with the dictum: "In the present state of French public law, this argument cannot be raised before the Conseil d'État." The control of the judicial section of the Conseil d'État is restricted to determining whether or not the decree laws exceed the power given by the enabling act. But there is no judgment on the advisability or wisdom of the decrees.[30] The first

[27] The Belgian developments, which we are unable to deal with here, are described in detail by Buttgenbach in "Pratique des pouvoirs spéciaux en Belgique," in *Revue du Droit Public*, Vol. 56 (1939), pp. 80–154. A concise treatment and an excellent evaluation of the Belgian decree practice may be found in R. Ruttens, "Législation extraparlementaire," in *Revue de l'Administration et du Droit Administratif Belge*," Vol. 86 (1939), pp. 245–260.

[28] The recent attempt made by Joseph Barthélémy in "Un tournant dans la conception française de la loi," in *Revue d'Histoire Politique et Constitutionelle*, Vol. 3 (1939), 161–168, to interpret a decision of the Conseil d'État as implying a trend towards judicial control of legislative acts cannot be found convincing. The decision is printed in Dalloz, *Recueil périodique et critique de jurisprudence* (Paris, 1938), III, 41, "La Fleurette," with commentary by Professor Rolland. The commentary by Rolland clearly states that, according to the principles of French constitutional law, the principle of the equal sharing of public burdens on which the decision rests would have no validity in the face of the expressed will of the legislature.

[29] Quoted *supra*, note 2.

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question which the Conseil d'État examines is whether the time limit set by the enabling act has been observed. The decrees are valid only if (1) they are issued within the time limit specified by the enabling act, and (2) the requirements regarding *rapport,* ratification, or confirmation by Parliament within a specified time are observed. In a 1939 case, the Conseil d'État was faced with a situation in which the government had extended by decree its powers in a certain field beyond the time limit set by the enabling act.[31] The Conseil invalidated this section of the decree on the ground that at least the principles of the proposed reform must be defined within the legal time limit. The door was thus still left open for actual extension of time as long as done skillfully.

The requirement of *rapport,* ratification, or confirmation by Parliament does not mean much. A *rapport* merely requires the cabinet to report on its activities within a given time. The validity of the decree laws is not affected, however, by Parliament's reaction, no matter how negative. As for ratification or confirmation, the enabling acts merely require that the decree laws be placed before Parliament for ratification within a fixed time.[32] This does not mean that the decrees must be ratified,

[30] The first Poincaré enabling act provided for the consultation of the administrative section of the Conseil d'État before the issuance of decree laws, but the second Poincaré enabling act left the Conseil d'État out. A decree of March 25, 1939, established the following machinery for the issuance of decree laws. At least three days before the Council of Ministers is to be convoked for discussion of proposed decrees, the decrees must be submitted to a committee made up of the director of the cabinet, the president of the council, the secretary-general of the ministries of war and finance, and one representative of the ministry specifically concerned with the decree in question. As the Council of Ministers will not give more than formal consideration to the decrees, the supervision remains largely in the hands of three officials who can check or confirm the actions of the various departments. (See *J. O.*, March 26/27, 1939). An example of how the decrees are rushed through the Council of Ministers may be found in Lindsay Rogers, *op. cit.*, p. 239; see also C. J. Friedrich's interesting article, "Paul Reynaud," in *Atlantic Monthly,* Oct., 1939, pp. 490–501. During the parliamentary debate on the April, 1938, enabling bill, Louis Marin brought forward an amendment which would have obliged the government to lay any proposed decree before a parliamentary committee at least three days before its issuance. This amendment might have eliminated the excesses of decree legislation through the publicity involved, but it was defeated by a vote of 429 to 97. (Sess. Ord., Chambre, 1938, 1159 seq.)

[31] *Amicale des anciens combattants.* S., 1939, III, 33 seq.

[32] See, *e.g.*, the wording of the Daladier enabling act of March 19, 1939. "The decrees must be submitted to the Chamber for ratification before December 1, 1939." (*J. O.* of March 20, 1939.)

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however, but merely that they must be submitted.[33] If Parliament formally ratifies a given decree, it becomes law from the time of the ratification and is no longer subject to judicial control. If, as is the usual practice in France, Parliament takes no action, the decrees remain in force and are still subject to control by the Conseil d'État. Only if Parliament refuses to ratify does the decree become void from the time of the rejection. All actions taken under the decree up to that point, however, remain valid.[34]

We come now to the question of the extent to which the Conseil d'État may examine the contents of decree laws. Decrees must not exceed the material competence set by the enabling act. The act may define specific aims to be accomplished by the decrees, or it may limit the methods by which these aims can be attained (a frequent procedure in Belgium, but used only once in France). In actual practice, however, the Conseil d'État has been quite reluctant to invalidate decree laws which exceed the powers granted by the enabling act. The Conseil found the most varied governmental regulations, including salary and pension cuts and reorganization schemes, falling within the economy aims defined by the "deflationist" enabling acts of 1934/35.[35] All the new restrictions making

[33] See M. Hauriou, *Précis de Droit Constitutionnel* (2nd ed., 1929, p. 453); G. Jèze, "Des règlements faits en vertu d'une compétence donnée au gouvernement par le législateur," *Revue du Droit Public*, Vol. 55 (1938), p. 503. For Belgium, see Buttgenbach, *op. cit.*, p. 106 seq. Similarly, see the decision of the Conseil d'État: Fédération des syndicats professionnels des cheminots, S, 1937, III, 102. Only if the enabling act (*e.g.*, the French customs act of July 9, 1937, Art. III) makes ratification a condition of validity would non-ratification within the time limit provided by the statute affect the validity of the decree. During the parliamentary debate on the last French enabling act (December, 1939), the finance commission of the Chamber proposed that the decree laws should lose their validity if the parliamentary session following their issuance should conclude without ratifying them. Daladier opposed the amendment and it failed. See the report of the session in *Le Temps* of Dec. 2, 1939.

[34] This last is largely an academic question and has evoked considerable discussion in legal literature. It is treated in full by L. Duguit, in "Des règlements faits en vertu d'une compétence donnée au gouvernement par les législateurs," in *Revue du Droit Public*, Vol. 41 (1924), pp. 313–349. See also Jèze, quoted *supra*.

[35] (1) Coudert and Arrighi, quoted *supra*. (2) Fédération des syndicats professionnels des cheminots, quoted *supra*. (3) Olphe-Gaillard, *Recueil des arrêts du Conseil d'État* (R), 1937, p. 304. The fact that the costs of the supervision of private insurance companies are eventually borne by the companies themselves did not lead the Conseil d'État to invalidate pensioning of state insurance inspectors as an economy measure merely because their salaries are formally paid out of general government funds. (4) Ramarony, R, 1938, 252. Rapid and simplified expropriation

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serious inroads in the already not very extensive administrative power of the municipal governments were also approved as "economies." The Conseil d'État reasoned that in view of the close interrelationship between municipal and state budgets any amelioration of the financial situation of the smaller governmental units has a favorable effect on the general financial situation.[36] Only in very rare and unimportant cases has the Conseil d'État occasionally voided individual paragraphs of decrees, and then because not even the most sympathetic interpretation could fit them into the economy requirement.[37] All these cases, it must be remembered, refer to the 1934 and 1935 enabling acts, which limited decree action to measures for financial recovery and a balanced budget. With the enlargement of the aims to include national defense, the opportunities for discovering a connection between the decree and the aims of the enabling act become even greater. Control by the Conseil d'État thus ceases to be a real check on the exercise of the decree power, and as the legal phraseology of the enabling acts becomes more general, it becomes still more hopeless to try to attack the validity of a decree law.

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procedures introduced by decree under the Laval enabling act of June 8, 1935, reduce administrative costs and are therefore held to come under the aims of the enabling act. Additional cases may be found in the Initialed Commentary to S. 1937, III, p. 97.

[36] R 1936, p. 817, Ville de Strasbourg, approving for these reasons the appointment of state officials to the Strasbourg Hospital and Welfare Commission. See also R 1936, p. 509, Ville de Suresne, where the reform of the municipal accounting system was approved on the same argument.

[37] Besides the case quoted above (*Amicale des anciens combattants*), there is the case *Union des véhicules industrielles*, S. 1937, III, p. 97. Here the government introduced extensive regulations on road traffic. One section contained detailed rules about the right of way for heavy trucks. While upholding the general features of this decree, the Conseil d'État was unable to find a connecting link between rules about right of way and the alleviation of the country's financial burden, and therefore voided that section. Only in one set of cases, where the admissibility of municipal enterprises was in question, the Conseil d'État refused to acknowledge the validity of governmental decrees issued in pursuance of enabling acts and sanctioning such enterprises; but even in this case, characteristically enough, this was done by interpreting, or rather misinterpreting, and not by invalidating, the decrees in question. Chambre syndicale de commerce en détail de Nevers, and Giaccardi, S. 1931, III, p. 73, with commentary by Alibert. Zénard, S. 1934, III, p. 105, Tesnière, S. 1935, III, p. 63, both with commentary by Mestre. Chouard, S. 1936, III, p. 17. See also Waline, *Manuel élémentaire de droit administratif* (Paris, 1936), p. 243 *et seq.*, and W. R. Sharp, in W. Anderson (ed.), *Local Government in Europe* (New York, 1939), p. 167.

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Until very recently, constitutionality of enabling acts was frequently judged from what we may call a version of the "material conception of law." This material conception of law took shape in the early nineteenth-century struggle between the relatively independent army, bureaucracy, and land-owning classes on the one hand and the parliamentary opposition on the other. In the course of this conflict, it was established that all rules pertaining to the spheres of property and personal liberty are excluded from the jurisdiction of the executive and may be regulated only by act of Parliament. These fields, some now argue, also mark the limits to every enabling act. It is a rather difficult theoretical venture to attack the decree laws from this angle,[38] and it is particularly difficult to lay special stress on constitutional precedent,[39] since during the first World War the government had already received broad powers infringing on all of these fields. Therefore, no such constitutional custom exists today, and even if it did so, as Barthélemy points out, it would not act as a brake on parliamentary action.[40]

The decisive question, therefore, is: What does the constitution itself say? The constitutional laws of 1875 do not include a specific bill of rights. All attempts to declare that the bill of rights nevertheless forms a part of the constitutional system do not concern the constitutional system proper, but concern questions of social legitimacy.[41] In but two fields do the constitutional laws of 1875 seem explicitly to require statutory action: the issuance of amnesties and certain kinds of international treaties (not the vital ones). Yet even in these spheres the administration has paid little attention to such reservations and has issued decree laws.[42] It seems, therefore, that neither the more or less accidental use of the word

[38] The whole doctrine in both its German and French versions is fully analyzed and criticized in Carré de Malberg, *Contribution à la théorie générale de l'État* (Paris, 1920), Vol. 1, p. 285 et seq. See also C. Schmitt, "L'évolution récente du problème des délégations législatives," in *Introduction à l'étude du droit comparé* (Paris, 1938), Vol. 3, pp. 200–210 (translated from the German). Its application to the 1924 Poincaré enabling act is to be found in L. Rolland, "Le projet du 17.I. et la question des décrets-lois 1924," *Revue du Droit Public*, Vol. 41 (1924), pp. 42–74.

[39] See, for example, Rolland, *op. cit.*, p. 61.

[40] Barthélemy-Duez, *Traité de droit constitutionnel* (Paris, 1933), p. 763.

[41] Hauriou, *op. cit.*, p. 239. See the discussion of this point in K. Loewenstein, "The Demise of the French Constitution of 1875," in this REVIEW, Vol. 34 (1940), pp. 892–893.

[42] Law of February 25, 1875, Art. 3, and July 18, 1875, Art. 8.

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"statute" in the constitutional laws nor the nineteenth-century constitutional theory that infringement of so-called fundamental rights requires a legislative act carries much weight in arriving at a correct understanding of the limits upon executive action in a parliamentary régime. The competence of Parliament is a general one.[43] There is no field where the executive is free to compete with the legislature. The French constitutional law of February 25, 1875, states this point unequivocally when in Article 1 it assigns the legislative power to Chamber and Senate and in Article 3 defines the duties of the president of the Republic as the superviser and guarantor of the execution of the law.

If the executive therefore has no original rule-making power under a parliamentary régime, our question is narrowed to this: Within what limits may Parliament delegate its functions to the executive? The more one accepts the notion of a separation of functions, the narrower will one set the limits to delegation of powers. In order to emphasize the view that the power given to Parliament by the constitution may in itself not be transferred and that only certain well-defined and well delimited tasks may be delegated, Hauriou, for example, is careful not to speak of delegation of *power*, but only of delegation of certain *fields* to another authority; and Duguit speaks of "*attribution des compétences.*"[44] It is therefore evident that the practice of all-embracing delegation incorporated in the more recent French enabling acts was not compatible with the constitutional system in which a strict conception of separation of powers still prevailed. Carré de Malberg's treatment of the problem is the most interesting.[45] He rejects as incompatible with positive French constitutional law the material conception of the law both in its restricted nineteenth-century form of guaranties to liberty and property and in its eighteenth-century form (re-

[43] On the constitutional development of legislative omnipotence in parliamentary democracy, Rudolf Smend, *Die preussische Verfassungsurkunde im Vergleich mit der belgischen* (Göttingen, 1904) is still of considerable value.

[44] Duguit, *op. cit.*, p. 315. We give the full formula elaborated by Hauriou because it exemplifies the attempt to unite the need for delegation with the preservation of clear distinctions between the spheres of the executive and the legislative: "The delegation of the forms of power is impossible, but the delegation of fields of activity is permissible, with the proviso that the power to whom the activity is delegated rules under the forms appropriate to itself. Hauriou, *op. cit.*, p. 265.

[45] Carré de Malberg, quoted *supra*, and still better the very lucid exposition of his ideas in his later work, *La loi, expression de la volonté générale* (Paris, 1931).

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suscitated in the twentieth century) which requires the general character of a rule. According to Carré's thesis, the authority of statute under the French constitution derives solely from the general will. It is the expression of the general will because the legislature is supposed to represent the general will, and therefore it receives its justification only in the assumed generality of its origin. Whatever contents the statute may have, nobody may question it, since it is presumed to express the general will.[46] One corollary of this doctrine is to give Parliament wider scope for delegation of power. If there is no material difference between the activities of Parliament and the activities of the executive, between parliamentary statute and administrative regulation, there is no reason why Parliament cannot make use of "*habilitations*," as Carré calls the transfer of rule-making power to the executive. Yet even this theory must set limits to such "habilitation." Rejecting all material differences between legislative and executive action, Carré nevertheless comes to the same restrictions as do other theorists upon the transfer of power. In order that the relations between the enabling act and the ensuing regulations correspond to Article 3 of the constitutional law, Carré argues, the enabling act must have determined with sufficient precision the object and extent of the competences to be exercised by the executive. A statute authorizing the President for an unlimited time to take all necessary measures would transfer to the President the power which Article 1 of the constitutional law of 1875 reserves for the legislature.[47] With this argument, the theory which gives Parliament the widest latitude of action joins the main body of French constitutional theory. This shows that the development which began in 1934 and reached its climax in 1939 cannot be reconciled with the postulates that had dominated French constitutional law as elaborated in the revolutionary constitutions and stated in the constitutional laws of 1875.

One of the stereotyped arguments designed to prove that the enabling acts do not exceed the frame of parliamentary government is that the cabinet still requires the confidence of Parliament, and that Parliament retains the legal and political possibility of overthrowing the government, thus exercising an all-important check

[46] *La loi* . . . , pp. 17–18. That this general will in itself is a fiction, Carré has never denied. See "Considérations théoriques sur la combination du referendum avec le parlementarisme," *Revue du Droit Public* (1927), pp. 225–244, and *La loi* . . . , pp. 214–222. [47] *La loi* . . . , p. 37.

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on its otherwise unrestricted activity. This argument has been considerably weakened since a decree of July 29, 1939, extended the life of the French Chamber by two years.[48] Art. 2 of the July 29 decree stipulates that even by-elections may take place only in case of death or appointment to a public office which requires the resignation of a member. Therefore the ejection of the members of the Communist party does not require new by-elections. It is a fair question whether such a parliament can still claim a representative character, since its political composition has undergone considerable change through the ejection of a group of its members, and the electorate will not be allowed to pass judgment upon the activity of their representatives.

A related argument often heard in defense of the practice of enabling acts is that it represents the appropriate form of parliamentary government for our time.[49] The difference between traditional parliamentary procedure and the procedure inaugurated by the enabling bill, it is stated, is very slight and inconsequential. Whereas the old-fashioned parliamentary method insists on *a priori* approbation of governmental measures, now the approval is given *post facto*. This difference is supposed to reduce itself to a mere question of legal technique. In the political aspect, there is no difference at all, since the cabinet is invested with the confidence of Parliament. The enabling acts are therefore a perfect method adapted to the intricate problems of our society, while remaining fully in conformity with the principles of parliamentary rule.

Of course, the practice whereby Parliament establishes general rules and leaves the execution to the administration, preferably with the active participation of all interested groups, is accepted in France as in any other country. Even the practice of transferring special fields *in toto* to the executive—a practice sometimes followed in France as well as in Belgium—may still be regarded as

[48] The report to the President accompanying the publication of his decree, *J. O.* of July 30, 1939, tries to justify the encroachment upon the rights of Parliament by arguing that the question of a possible extension by decree was discussed during the debate on the enabling act of March 19, and that in voting the enabling act the majority automatically acquiesced in this measure beforehand.

[49] B. Mirkine Guetzévitch, "Pleins pouvoirs sous le régime parlementaire," in *Annales de l'Institut de Droit Comparé* (Paris, 1938), Vol. 3, pp. 69–86, and the same in "Le régime parlementaire dans les constitutions européennes d'après guerre," in *Annuaire de l'Institut International du Droit Public* (Paris, 1936), pp. 39–85. See also Lacharrière, *op. cit.*, p. 148.

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within the constitutional framework, since specific fields are involved. But there is a considerable difference between the need for delegated legislation within the framework of parliamentary legislative supremacy, as set forth, for example, in the well known English report of the Committee on Ministers' Powers, and the complete surrender to the executive of the right to determine the principles of public policy.[50] The contention that there is no vital distinction between ordinary parliamentary legislation and *post facto* approval—or, to put it more correctly in the light of recent experiences, no formal *post facto* disapproval—of delegated legislation is without foundation.[51] Normal parliamentary discussion of a bill provides for separate consideration of every article, giving the opposition the opportunity to propose amendments to every article.[52] How is it possible to reconcile the *en bloc* adoption of hundreds of decree laws as we know it from Belgian practice, on the mere recording of decrees (for that is what the French practice of presenting the decree laws to Parliament for ratification actually amounts to) with the normal detailed parliamentary procedure? The contention that Parliament can change the decree legislation after the expiration of the emergency powers does not face the real issue. When and if Parliament is called to try its hand after months or even years of rule by decree, it cannot profit much from the knowledge that, legally speaking, it may void all the decrees. The actions taken by the government in the meantime will have definite political and social effects and will have created a new situation which Parliament cannot neglect, and which the simple invalidation of the decrees cannot eliminate.[53]

[50] Cf. also the exhaustive treatment of English delegation practice in W. I. Jennings, *Parliament* (Cambridge, 1939), pp. 451–492.

[51] We shall not discuss Mr. Mirkine Guetzévitch's argument in so far as it refers to the theories of the separation of powers, which he declares obsolete. The Panama Refining Co. and the Schechter Poultry Corp. cases (293 U.S. 388 and 295 U.S. 495) show that even an obsolete theory may sometimes celebrate a revival of some momentum. It is sufficient to emphasize once again that Carré de Malberg, the least separationist of all French theorists, arrives at substantially the same conclusion about the unconstitutionality of a general delegation of powers as the authors who follow more separationist lines (see his exposition in *Théorie Générale* . . . , Vol. 2, p. 94 seq.).

[52] These arguments are stressed in the Belgian literature. See Buttgenbach, *op. cit.*, p. 128, and H. Speyer, "Les dangers des pleins pouvoirs," in *Le Flambeau* (1934), pp. 641–649.

[53] Incidentally, even from a strictly legal point of view, Parliament could not undo

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Since most of these points are obvious, we must seek a more substantial reason for alleging the identity of parliamentary legislation and governmental rule-making by decree. It is explained to us as a kind of a logical consequence of the changed structure of the constitutional system itself.[54] In a society, it is argued, which no longer knows of an opposition between parliament and monarchy, army and bureaucracy, parliament has only secondary importance; elections are contested, not in order to gain a majority which may limit the power of the ruling classes more and more, but merely in order to form a government. Since there is thus a substantial identity between the parliament and its cabinet, and since the parliament has only to sanction the program of the ministry, there is no difficulty in giving the ministry full rule-making power. This theory is not supported by the facts of post-war Europe. The importance of election results unquestionably rose in France and Germany alike as a result of the post-war democratization. However, the attempt to form homogeneous governments in accordance with the election returns was never successful. No matter how successful in the elections, whether in France or in Germany, the major parties were never able to obtain clear parliamentary majorities. England might seem to offer a better argument for the thesis of the essential homogeneity of modern cabinets and parliaments, as we have only the two MacDonald minority cabinet exceptions of 1924 and 1929-31 on the record. But precisely because Bonar Law, Baldwin, and Chamberlain had a fairly homogeneous following in cabinet and Parliament, they never needed a peace-time enabling bill. The election returns may have been important in registering fashions in public opinion and in reflecting changes in social composition and age structure. The fundamental fact is not altered that the major social factors like employers' associations, agricultural interests, trade unions, churches, and so on, had to reach agreements on major objectives in the normal process of political life, even though their numerical representation in Parliament underwent fluctuations and their social weight shifted from time to time. The parliamentary groups were the actors in this give-and-take procedure. Legislation became legislation by compromise, a compro-

the decree legislation, since obligations entered into and rights created under the decree laws would have to be upheld. On these very intricate questions, see Duguit, *op. cit.*, p. 345 seq.

[54] Mirkine Guetzévitch, *Annuaire* . . . , pp. 73, 76.

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mise determined by the actual status of the political parties as revealed in the most recent election, by the ups and downs in economic conditions, and by the power which the respective social forces were able to yield at any given moment. These parliamentary combinations also produced what we have earlier described as "compromise enabling acts"; that is to say, under certain circumstances, the major political groups agree to grant power to coalition governments for the purpose of carrying through necessary decisions by means of delegated legislation. But frequently the coalition government could not reach an agreement on the necessary course to be followed any more than the multiple party parliament whose structure it reflected. With the granting of enabling powers to cabinets which could command a more or less comfortable parliamentary majority (as in France), but which nevertheless represented only one section of the country's social structure, the whole picture undergoes a distinct and far-reaching change. The compromise structure formerly inherent in both the legislative and the political decisions disappears. The unequivocal policy followed by these recent governments forces the hand of all political groups; it carries with it a complete unification of political outlook, since the interests which usually avoid clear-cut engagements and change their allegiance from issue to issue according to the objective in question are forced to make a long range choice between unconditional support of the government's political and social program and serious conflict with it. The parliamentary minority, or that part of the population in general which is not represented in the cabinet invested with decree power, finds its ability to fight the government's policy seriously weakened. Either Parliament is in recess when the decrees are issued, or, if it is in session, the government limits its activity to votes of confidence and enabling acts. Under such conditions, the temptation either to develop an anti-parliamentarian attitude or to follow the enticement of the cabinet and its bureaucracy to give up the difficult struggle and to become part of the governing machinery with pay and pensions guaranteed, but without freedom of action, is obviously strong.

In sum, the theory that decree government represents "parliamentary government in our time" simply ignores the problem of the groups not represented in this government. In France in 1938–39 parliamentary action by opposition groups and popular control

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through election had been seriously curtailed. One might argue that government by compromise is no longer feasible in a country torn by dissension and menaced with destruction from without, and that therefore the shift to the semi-independent governmental and bureaucratic machinery, ruling by the legal device of recurrent enabling acts squeezed out of a frightened majority, was more or less unavoidable. We cannot here enter into the eternal argument as to whether parliamentary democracy is still possible in a society in which the degree of political homogeneity is decreasing.[55]

One conclusion seems to stand out clearly. The degradation of Parliament to a mechanism recording votes of confidence and authorizing enabling bills only hastens the disintegrating process of parliamentary government as such. No apologetic theory can hide the fact that parliamentary government in the twentieth century has come to rest mainly on a double basis: the trust which the population as a whole puts in this institution as the embodiment of their wishes and wants, and the ability of the organized social forces to find a solution of social problems with the help of the rules and procedures established by this institution. When Parliament loses this position of trust and abdicates its function as guarantor of universally acceptable compromises, the time of parliamentary democracy will have passed.[56]

[55] The different points of view are brought forward clearly in H. J. Laski, *Parliamentary Government in England* (New York, 1938), on one side, and C. J. Friedrich, "Democracy and Dissent," *Political Quarterly*, Vol. 10 (1939), pp. 571–582, on the other.

[56] As this article, written before the French débâcle, goes to press, the Third Republic has succumbed under Hitler's war machine. Important as the constellations of foreign policy and the fortunes of war may have been, it seems safe to assume that internal developments had their full share in the downfall of France as a sovereign state. The evisceration of democracy which had taken place with increasing tempo since the end of the Popular Front intermezzo left the country with a considerably weakened political structure in the gravest moments of its history. Whatever may be the changes that the remaining democracies shall have to undergo in their struggle for survival, the French example, coming eight years after the German *Praesidialregierung* of Bruening and Papen, shows that the unlimited decree-rule of a constitutional government with a dubious popular or parliamentary basis serves only as an intermediate station on the road to complete authoritarianism.

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An Approach to a Science of Administration. Writers on public administration place much emphasis upon the possibilities and importance of discovering and applying scientific principles in their field of study. But very few of them have ventured to state the basic premises upon which they seek to build that science. Many of those whose writings imply that major principles have been discovered announce, not premises, but conclusions, which, regardless of their practical merits, can hardly be called anything but opinions.[1] On the other hand, several scholars seek to escape from errors of commission by avoiding the use of such scientific terms as "principles" or "efficiency." If they go beyond descriptive analyses to advocate particular plans of organization or methods of procedure, they use terms which denote value judgments, thereby admitting by implication that they are expressing mere opinions.[2] In a few published discourses, basic premises are stated and reasoning is developed therefrom. However, most of those premises—or "principles"—are referred to by name only, such as "the principle of leadership"; they are not stated in terms of pre-

[1] For a distinction between "principles" and "opinions," see L. D. White, "The Meaning of Principles of Public Administration," in White, Gaus, and Dimock, *Frontiers of Public Administration* (1936), Chap. 2. For statements announcing important "principles" of public administration, see *Report of the President's Committee on Administrative Management* (1937), p. 3; Harvey Walker, *Public Administration* (1937), pp. 61–62; A. E. Buck, *Reorganization of State Administration in the United States* (1938), p. 14. Buck uses the term "standards," but his standards of administration are apparently derived from what he and others regard as scientific tests of experience. In a criticism of the "prevailing theories" advocated by Buck, Willoughby, and others, Charles S. Hyneman cites several other writings which support the view that those theories are mere opinions—or worse. Charles Hyneman, "Administrative Reorganization," *Journal of Politics*, Vol. 1, pp. 62–75 (Feb., 1939).

[2] In his recently published *Introduction to the Study of Public Administration* (1939), L. D. White carefully avoids the use of the term "principles" and of other terms which might suggest that he is stating "scientific laws"; but he makes frequent use of another type of positive statement, such as "good administration requires" (p. 46), "it is also desirable" (p. 79), and "the interests of good administration suggest" (p. 570). Of course the social scientist cannot disregard human concepts of value, because the very purpose of social organizations is to satisfy human wants, and no organization can function long if its activities produce general dissatisfaction. But the student must seek to measure public value judgments objectively, by taking his standards from official statements of policy and by observing human behavior which may serve as evidence of general and public concepts of value. The "social efficiency" to which Millspaugh and Hyneman refer (see Hyneman, *op. cit.*, pp. 66–67), like Dr. White's "good," may be used scientifically if it can be observed and measured objectively. But it is doubtful whether political scientists are fully agreed on the values which they set forth, and therefore the conclusions drawn from such general concepts of value must be classed as opinions.

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cise causal relations which can be verified or which can serve adequately as bases for further reasoning.[3]

It may be regarded as unwise to venture a statement of what one considers the basic premises upon which a science of administration may be built. But every body of theory is built upon fundamental assumptions, either expressed or implied. Moreover, a body of theory is complete, and has scientific value, only when the premises are sufficiently clear to permit objective scrutiny and verification. Erroneous hypotheses, stated precisely, may be more scientific than vague or unexpressed assumptions; for only the former will lend themselves to verification. In other words, trial and error is an essential part of scientific method.

What, then, are the first steps in an approach to a science of administration? Dr. Luther Gulick recently set forth what he considered the requirements of a scientific approach to the social studies at the present time. These requirements were: "(1) analysis of phenomena from which we may derive standard nomenclature, measurable elements, and rational concepts; (2) the development of extensive scientific documentation based upon these analyses, and (3) the encouragement of imaginative approach to social phenomena, and the publication and circulation of hypotheses so that they may be scrutinized by others in the light of experience, now and in future years."[4]

A number of essentials are suggested by the foregoing statements, but there is involved a clear recognition of two basic methods of approach to scientific study. Statement number "2" calls for the empirical method, by which we collect and describe appearances in order that general conclusions or laws may be derived therefrom. Statement "3" suggests the rational or deductive method, whereby we seek to determine causal relationships among the appearances which we observe. This latter method involves the adoption of definitions, axioms, and propositions, which are derived from empirical observations, and which are capable of serving as premises to reasoning. Conclusions reached by the rational method must be consistent with the appearances gathered; but, being consistent, those conclusions, and the premises from which they are derived, may serve as bases for other conclusions beyond the immediate reaches of empirical observation. The two methods are not independent and alternative processes of scientific study; they are mutually dependent phases of investigation, and one cannot be separated from the other without impairing

[3] *Papers on the Science of Administration* (1937), edited by Luther Gulick and L. Urwick, perhaps contains the best collection of articles representing an attempt to develop a rational scientific approach to the study. But one searches almost in vain for the statement of a "principle" in precise terms or in terms of causal relationship.

[4] Gulick and Urwick (eds.), *Papers on the Science of Administration*, p. 194.

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the value of both. However, it is possible for individuals, according to their own temperaments or according to the facilities which they have available, to specialize in one or the other of these phases.

There may be some dispute as to whether the rational method can be depended upon until the empirical studies are well advanced. Political scientists who give advice regarding fields and methods of possible research seem to emphasize the need for empirical study.[5] There is danger, however, that the empirical studies will be lacking in direction or meaning until they are capable of being interpreted in the light of propositions brought forth by the rational or theoretical approach. Pithecanthropus was not discovered until after Darwin had expounded his theory of evolution, and the discovery probably would have had little significance prior to that time. Principles of economics which were originally derived from relatively superficial observations have served as guides to extensive empirical studies in recent years, but thus far the major conclusions derived from the rational analyses have been changed very little.

Without disparaging the importance of empirical research, therefore, one may be justified in taking the view that the early development of a rational theory is indispensable to the advancement of scientific method in the study of administration. Since the development of a rational theory is the concern of this article, the problem of selecting basic definitions, axioms, and propositions becomes fundamental. For that reason, the premises which are stated in the following pages are classified as "axioms" and "propositions," although they would more properly be termed "hypotheses" which are set forth in order that they may be tested and scrutinized in the light of experience.

I

Administration is a type of coöperative activity; it is concerned with the performance of tasks that require collective efforts on the part of two or more persons. It follows, therefore, that the first term which requires definition is *organization.*[6]

[5] Cf. Oliver P. Field, *Research in Administrative Law* (1937); L. D. White, *Research in Public Personnel Administration* (1939). All of the publications of the Committee on Public Administration, Social Science Research Council, are reports of empirical studies. Perhaps the emphasis is justified by the definition of "research"; but see W. F. Willoughby, "A Program for Research in Political Science," in this REVIEW, Vol. 27, pp. 1–23 (1933).

[6] Most textbooks, and many other treatises on the subject, start by defining *administration.* However, the writer has found no definition which presents a clear demarcation between administration and other types of coöperative activity, and he doubts whether the concept will lend itself to precise definition. Since administration is a type of organization, the elements of the latter are also elements of the former.

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"Organization" is defined in the *Standard Dictionary* as "a number of individuals systematically united for some end or work." James Mooney says that it "means concerted human effort";[7] while Chester I. Barnard defines "formal organization" as a "system of consciously coördinated activities or forces of two or more persons."[8] From these definitions and others we may conclude that the primary elements of every social organization are (1) persons, (2) combined efforts, and (3) a common purpose, or a common task to be performed. Therefore, by using the term "formal organization," in order to exclude subconscious or accidental coöperation, the following definition may be set forth:

> *Definition:* A formal organization is a number of persons who systematically and consciously combine their individual efforts for the accomplishment of a common task.[9]

It follows from the above definition that the effectiveness of an organization is measured by the extent to which it carries out its purpose. To be sure, that purpose is not always clear in the minds of contributing members, and individuals frequently coöperate for different and personal reasons. In the case of an administrative organization, however, objective measurement of effectiveness can be made only in terms of the legal or official statement of ends to be sought.

But in order to carry out its prescribed tasks over a long period, an organization must survive; and to survive, it must avoid undue and unnecessary consumption of human energy and of other human sacrifices. Every individual belongs to several organizations, each of which requires effort or some other sacrifice on his part. To some extent, these organizations must compete for his contributions. We may assume, therefore, that the less human effort and sacrifice required by an organization to perform a given task under given circumstances, the greater the assurance that the organization will survive and continue to fulfill its purposes.[10]

[7] Gulick and Urwick (eds.), *Papers on the Science of Administration*, pp. 91–92.

[8] Chester I. Barnard, *Functions of the Executive* (Harvard Univ. Press, 1938), p. 73. The presence or absence of a joint purpose is the principal basis on which Barnard distinguishes between formal and informal organization. *Op. cit.*, Chap. 9.

[9] Some authorities define organization as the arrangement of personnel for the accomplishment of a purpose. Cf. Gaus, White, and Dimock, *The Frontiers of Public Administration* (1936), pp. 66–67, and L. D. White, *Introduction to the Study of Administration* (1939), p. 37. While the arrangement of personnel is essential, and while that is the center of attention in organization charts and plans, the definition is suggestive of preparation rather than of action. No organization actually exists except in so far as there is concerted activity.

[10] This is apparently what Mr. Gulick has in mind when he says that "in the science of administration, whether public or private, the basic 'good' is efficiency." Gulick and Urwick, *op. cit.*, p. 192. The idea is basic in all discourses on public administration—even among those who object to the emphasis placed upon "effi-

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The degree to which an organization accomplishes its task depends upon three primary factors; namely, (1) the accomplishments of individual members, (2) the number of members, and (3) the coördination of individual efforts. The first two of these factors give potential power or effectiveness to the organization because they represent the energy consumed by it. The third, with which this article is particularly concerned, is the factor which determines the efficiency of the organization.[11]

Coördination involves several essentials, among which are (1) the attachment of individual accomplishments to the common task, (2) the avoidance of individual activities which interfere with or nullify one another, (3) the performance of all activities necessary to make any given individual accomplishment contribute to the common purpose, and (4) the timing and placement of individual activities in such relationship to each other that the common purpose will be accomplished.[12]

James Mooney lists coördination as "the first principle of organization."[13] The propriety of that designation becomes obvious when one realizes that all other phenomena which serve to promote the attainment of organizational objectives operate through coördination. Therefore, the principle of coördination, which I state here in terms of causal relationship, may be classed as the first axiom in a rational theory of administration:

> *Axiom I:* The degree to which any given organization approaches the full realization of its objectives tends to vary[14] directly with the coordination of individual efforts within that organization.

II

Having stated the basic axiom, one faces the necessity of explaining the phenomena which serve to promote or to impair coördination. An exami-

ciency in operation." Difficulties and disagreements arise in the attempt to determine the relative importance of different kinds of human sacrifice.

[11] These factors cannot be isolated. As the later discussion will indicate, coördination is largely a consequence of individual efficiency, and individual accomplishment is also dependent upon coördination. The factors may be considered separately, however, in the sense that price, demand, and supply are considered separately by the economists.

[12] The result of coördination is efficiency of the organization. The result of manpower, individual accomplishment, and coördination is effectiveness of the organization.

[13] Mooney defines "principle" as a characteristic which is universal. By his definition, coördination is a principle of organization because it is characteristic of all organizations. Having adopted that definition, he is content merely to name "principles" without explaining them in terms of causal relationship. The present article is based on the proposition that coördination, while essential to all organization, is a variable which tends to produce like variations in the effectiveness of an organization.

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nation of published materials in the field leaves one with the impression that most students of administration agree with Mooney, who places "the principle of leadership and command" next in importance to his principle of coördination. Mooney illustrates the principle by pointing out that if two men combine their efforts to lift and move a heavy stone, one must give a signal, such as "heave ho," in order that the two men can lift in unison.[15] But the illustration involves the start of a new operation rather than the continuous functioning of an organization, and therefore it seems that Mooney has overlooked another vital factor in administrative coordination.

If, instead of the two men moving a stone, one observes an amateur tennis or volley-ball team at play, or even a store or office force at work, one may be impressed by the fact that either work or play is coördinated for long periods of time without any evidence of leadership. While leadership is essential and important, it does not operate continuously.

But coördination is continuous in any but the most casual organizations. This continuity of coöperative interaction is possible only when each member of an organization has learned his task and certain vital relationships between his own activity and the activities of those about him. In other words, a routine of interactions has been established; the relative positions of workers, the individual tasks, and the sequence of operations are known because of a series of past decisions and experiences. The parts of the organization are coördinated much the same as the muscular movements in one's body are coördinated when one walks. No continuous conscious effort is necessary; the organization has acquired a *habit* of coördination.

Definition: Organization routine is that part of any organization's activities which has become habitual because of repetition and which is followed regularly without specific directions or detailed supervision by any member of the organization.

Proposition I: Coördination of activities within an organization tends to vary directly with the degree to which essential and recurring functions have become part of the organization routine.[16]

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[14] In all axioms and propositions, the phrase "tends to vary" is used—instead of the unrealistic "other things being equal"—to allow for factors that would produce contrary tendencies.

[15] Gulick and Urwick, *op. cit.*, p. 91.

[16] To many persons the term "routine" implies the absence of individual initiative and imagination. However, an analogy may serve to illustrate the difference. A violinist who devotes his entire attention to matters of technical proficiency (the routine of playing his instrument) never becomes a great artist; but neither is it possible for the musician to give his attention to the creative phases of his art until he has mastered the technical problems so thoroughly that he need not think about the details of his finger or arm movements. The routine must be mastered before the violinist becomes a musician. In an organization, the conscious attention is the

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The word "essential" is included in Proposition I because routinized activities do not always promote coördination. Every individual who has observed his own behavior knows that while habit makes coördination possible, it may also serve to interfere with coördination. For some unknown reason, perhaps an unexpected situation, an athlete may shift certain muscles unconsciously. The movement becomes habitual and the athlete finds himself "in a slump" until more effective coördination can be restored. In like manner, an organization may adjust itself to certain irregularities, with the result that a new sequence of interaction becomes routine.[17] And the new habits of an organization, like those of an individual, may be "good," or "bad," i.e., they may serve to promote, or they may impair, the accomplishment of an organization's objectives.

III

Organized routine has another important limitation, namely, that it is restricted to regular and recurring activities. The individual knows that situations arise in which he cannot depend upon habit. He must exert conscious mental effort to coördinate his actions for a desired purpose. Again, the analogy is to be found in the organization. Action of a nonroutine character, that is, action in which coördination has not been secured through repetition, must be preceded by conscious consideration and *decision*. Decision is necessary whenever an organization is formed, whenever routine interactivity is deliberately changed, and whenever action is called for which has not become routine in character. While these cases occur only at intervals, the existence of methods of making decisions for an organization is essential to coördination of efforts.

Definition: Decision is the conscious consideration and conclusion regarding a course of action. The decision of an individual may be known only to himself; but the decision of an organization must be made known to more than one person and must be made by a person or persons who are recognized as having authority to speak for the organization.

When action is coördinated by means of decision, it must be because the decision is consistent within itself, with existing routine (except

attention of leaders, and the routine has been established when the organization carries on without conscious attention of leaders. The "dead level of mediocrity and routine" of which P. W. Melton speaks ("Administration in a Federal Government Bureau," in this REVIEW, Vol. 33, pp. 835, 840) apparently arises because the executive devotes his attention to matters that should be routine and habitual; not because recurring functions have become routine.

[17] L. Urwick apparently has somewhat the same idea in mind when he points out that "in organization there is a tendency to compensation, comparable to the tendency found in the human organism." Gulick and Urwick, *op. cit.*, p. 84.

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where changes are intended), and with other decisions affecting the same set of interrelations. Coördination in action is a function of coördination in decision.

Axiom II: Coördination of organized activities tends to vary directly with the coördination of decisions by which the course of activities has been determined.

Here lies the virtue of leadership. The problem of coördinating activities becomes more difficult as an organization becomes larger and more complex. But, on the other hand, the number of persons who participate in making decisions can be much smaller than the number required to carry out those decisions. In Mooney's illustration referred to above, two men were required to lift and move the stone, but one could decide when to lift. In fact, when a simple decision is called for, such as fixing the exact time to act, one may decide for thousands.

The essence of leadership, as illustrated by Mooney, is that action is coördinated by means of concentrating the function of decision in one or a few persons.[18] Because performance may be coördinated through decision, this concentration of the authority to decide simplifies the problem of coördinating performance as well as decision. Thus we have a rational basis for the oft-repeated "principle of unity of command."[19]

Definition: Leadership, as an element of organization, is a system of coördinating action by concentrating in a small number of persons the function of making decisions for the organization.

As will be pointed out later, other factors have vital influence upon the coördination of decisions, as well as upon the rate at which coördinated performance follows as the result of coördinated decision. However, these factors do not invalidate Axiom II or the following axiom:

Axiom III: In any particular type of organized activity, coördination tends to vary inversely with the number of persons directly participating.[20]

[18] The term "leadership" is used here in a limited and non-personal sense. Types of leadership or personal characteristics of leaders are not considered in this article.

[19] Gulick and Urwick, *op. cit.*, p. 9. Marshall Dimock, *Modern Politics and Administration* (1937), p. 270. For views approving the idea, see also L. D. White, *Introduction to the Study of Public Administration* (1939), p. 51; A. E. Buck, *The Reorganization of State Governments in the United States* (1938), pp. 17–19.

[20] The reader should recall that while coördination promotes efficiency, it is only one of the factors which determine the effectiveness of an organization. (Cf. note 12, *supra.*) This axiom does not lead to the conclusion that several small and independent organizations are more efficient than one large organization. If the same task is to be performed, integration does not increase the number of persons involved.

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Axiom III is of particular importance with respect to leadership, since the acts of decision lend themselves most easily to concentration. With this kind of application in mind, we may combine Axiom III with Axiom II and derive the following proposition:

Proposition II: Coördination of organized activity tends to vary directly with the degree to which the function of making decisions for the organization is concentrated.

Particular caution is required to avoid possible misinterpretation of Proposition II. In the first place, we must remember that to concentrate the power to decide is not necessarily the same as to concentrate the function. Over-concentration of the power may result in a dispersing of the function. Moreover, the lack of communication and knowledge, which factors are discussed below, may serve to nullify an attempt to promote coördination by concentrating the function of deciding.

IV

In considering the relationship between decision and performance, we must not overlook the important element of communication. Obviously, no decision can affect action if that decision is not communicated to the points at which the relevant action takes place. In like manner, decisions cannot be coördinated with the routine activity unless facilities are provided to communicate appeals for decision from the points where the need has been observed.

The importance of communication is a factor to which many advocates of integration and "unity of command" seem to have given inadequate attention. Too often their arguments suggest that if the authority to make decisions is properly concentrated, communication will take care of itself. But anyone who carefully observes an administrative agency in operation, even for a short period, is likely to be impressed by the difficulties of communication. The individual worker frequently does not know what questions he should decide for himself, or to whom he should appeal for decisions when an appeal is called for. Many times he finds that the person to whom he goes is too busy to help him, and time is lost while he awaits a decision. Such cases become truly serious when intermediate supervisers do not dare to make decisions, or when higher officials insist upon personal control of more decisions than they have time to handle expeditiously. Add to this the cases where lines are crossed and subordinate officers go over the heads of their immediate superiors, and possibly outside of the official organization to political party headquarters, for decisions, and we have a picture of the disorganization in many of our governmental agencies.

The reader may have noted that the "lines of communication" emphasized here appear to be synonymous with what is generally known as

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"lines of authority." In fact, the former may be defined as *lines of authority in operation;* they function only when communication can be maintained between points of decision and points of action. Legal, or "official," authority is worthless, or worse than worthless, when the person who possesses authority does not have, or does not see fit to use, facilities necessary to make and communicate to points of action the decisions which he is required to make, or which he insists upon making himself.

The existence of lines of communication between points of decision and points of action depends upon two important elements, namely, (*a*) freedom from interference by other lines of communication which may monopolize the time of persons in authority, and (*b*) recognition of the existence of authority to make decisions.

(*a*) The first element may be described as the readiness to communicate at the upper level, or point of decision. Mention has already been made of the fact that decision cannot serve to coördinate action if the person in authority cannot be reached for a decision when called upon. A congested waiting room often tells only part of the story about the difficulties of reaching the administrator in the inner office; subordinates who are conscious of the situation may postpone vital action for days because the superior is "obviously too busy." Effective coördination is dependent upon the ability of subordinates to appeal to the points of decision when necessary, and to get decisions which are communicated to points of action without undue delay.[21]

(*b*) The second element mentioned above, namely, recognition of the existence of authority, may be described as the readiness to communicate at the lower level—the points of action or of subordinate decision. An officer cannot make decisions which serve to coördinate action if his order, or communication, is not recognized by subordinates. Such a situation often arises when no definite lines of authority have been agreed upon, when a superior officer makes a practice of giving specific orders to workers without considering the importance of communicating through intermediate authorities, and when a person at an intermediate level is known not to be in good standing with his superiors.[22]

[21] Not every appeal requires immediate decision; but an administrator must have time to make decisions which are called for immediately, and to recognize the order in which questions ought to be decided and the information to be obtained and persons to be consulted before an order is issued.

[22] Under a spoils system, it is often necessary to retain an intermediate officer for some time after a change of party control, because his technical knowledge is indispensable pending the time when the new employees learn their tasks. When such an officer is flanked above and below by members of the new party, he usually exercises no authority; and the practice of passing over his office in departmental communication may become so habitual that his successor also exercises very little influence. The practice of jumping lines of authority (breaking the official channels

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To a large extent, the maintenance of efficient channels of communication depends upon the establishment of a routine. If the worker knows whom he should consult when in doubt, if the subordinate officer knows what kinds of questions he may decide and what kinds he should pass on to his superior, and if the superior likewise knows when he should not interfere with his subordinates, the system of communication usually operates efficiently. On the other hand, when the superior follows no consistent plan, or when he refuses to delegate authority to decide detailed or technical matters, the entire system of communication may be confused and inefficient.

Space does not allow further consideration in this article of the nature of administrative communication or the conclusions that may be drawn with respect thereto. If the following proposition is accepted as valid, further conclusions can be drawn by others who may continue the study, and systems of organization may be tested by those conclusions. Suffice it to state here one apparent conclusion, which is that coördinated administrative performance is most probable when the point of decision is near to, or within easy reach for communication from, the points of action—provided, of course, that the former is sufficiently high in the hierarchy of organization to avail itself of communication lines to all points of action to be governed directly thereby.[23]

> *Proposition III:* Coördination of performance tends to vary directly with coördination of decision, but the changes in the former follow changes in the latter at a rate which varies directly with the efficiency of the lines of communication between points of decision and points of action.

V

Propositions II and III and Axioms II and III have been set forth as possible principles of authority, or, in the highly descriptive terminology used by Mooney, principles of "perpendicular coördination."[24] But Mooney points out that the "principle of horizontal coördination" is equally important. He explains that this principle operates through the "universal service of knowledge" rather than through authority and command.

Basically, "horizontal coördination" is little more than another phase of the "system of communication" already referred to. It takes on special

of communication) is especially common when a busy director functions under a not-so-busy permanent board or commission.

[23] Further clarification of the nature and causes of red tape, the merits of various systems of field organization, and the merits and demerits of the board type of administrative control are only a few of the problems that might be analyzed on the basis of the proposition drawn from this discussion of "lines of communication."

[24] Gulick and Urwick, *op. cit.*, pp. 93–94.

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characteristics because it operates principally before rather than after decision, and because it brings to attention another factor in coördination, i.e., *knowledge*.

Proposition I indicates that organization routine is a major and continuous factor in coördinating organized activity. Since the process of decision operates intermittently, it can ordinarily promote coördination of performance only when the decisions are adapted to, or coördinated with, the existing routine. In order that a decision may be adapted to the existing routine, it is necessary that it be based upon knowledge about that routine. An officer who is far removed from the points of action can make decisions consistent with existing routines only by communicating with operating agencies, or with other agencies which have, or can obtain, the essential information.

Another illustration of the importance of a service of knowledge arises from the fact that administrative decisions affect many activities which are far beyond the recognized sphere of authority of the officers who make the decisions. For example, a state director of revenue may make a decision designed to insure more effective collection of sales taxes. In so far as this decision affects the administration of income taxes or other special taxes, the director may issue orders to promote coördination. But the resulting activity of governmental agents and employees may have to be coördinated with the methods by which business is carried on in the state, or with the constitutional principles of our federal system of government, either of which is beyond the control of the director of revenue. Knowledge of certain business methods and of constitutional principles, therefore, becomes fundamental to securing administrative coördination.

A single decision may serve to govern activities within several departments of an administrative system, and, at times, even to govern action within several units of government. But no decision or set of decisions can cover all governmental activities—not to mention related economic and social activities. Furthermore, if decisions affecting only the internal operations of administration were made at an administrative level high enough to cover all cases related thereto, the probabilities are that lines of communication would be clogged at the upper levels, and that coördination would be impaired rather than improved by the attempt to coördinate through control instead of through adaptation.

Because coördination through control is possible only within narrow limits, it follows that almost every decision is made with the idea of changing action within definite and narrow limits and of coördinating that action with the related activities not governed by the decision. The limited sphere of the decision may be called the "governed" or "strategic" factor, whose control, within the sphere of coördination with ungoverned factors, may produce new action designed to carry out the purpose of the

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decision.[25] An objective of this character necessarily requires that the decision be based upon knowledge about the related factors; otherwise there is no assurance that the decision will promote coördination. We may conclude, therefore, that a decision promotes coördination between "governed" activity and "ungoverned" activity only to the extent that the decision is based upon knowledge about the related, "ungoverned" activity. In the same manner, coördination between activity which results from a decision and other activities within the same administrative agency is assured only if the decision is based upon knowledge about existing routine. This idea may be expressed in another way by saying that effective coördination requires that, over a limited period at least, decisions shall be governed by action to a greater degree than action is governed by decisions. For only the "strategic factors" can be governed by decisions, while the latter, in turn, must be guided by all related activities if coördination is to be promoted.

The causal relationship between knowledge and coördination is expressed in the following proposition:

> *Proposition IV:* Coördination between activity resulting from a set of decisions and related activities not governed directly by those decisions tends to vary directly with the extent to which the decisions are based upon knowledge about the related activities.

But the persons who make decisions cannot collect and analyze essential information without impairing lines of communication between points of decision and points of action. Furthermore, the less important decisions must be made at points where the records at hand do not provide adequate information about other administrative units. Therefore it becomes necessary to transmit information from one agency to another through channels of communication which will not interfere unduly with the channels used for purposes of communicating decisions. And it becomes necessary, also, that in any large administrative organization certain agencies be maintained for the sole purpose of collecting, analyzing, and transmitting to points of decision such information as may be useful in coördinating strategic factors of organized activity with related activities not governed directly by administrative decisions. Such information can be interpreted and transmitted to points of decision when called for, when it appears that the information itself may lead to decisions, or when the knowledge may influence decisions that are made immediately upon appeal to the respective positions of authority in an organization.

Again it becomes important that facilities be made available for an effective system of communication. The following proposition expresses

[25] Cf. Chester I. Barnard, *Functions of the Executive*, Chap. 14, for further definition and illustrations of the "strategic factor."

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a relationship between knowledge and coördination, similar to that expressed in Proposition III with respect to leadership:

> *Proposition V:* The extent to which decisions are based upon knowledge about related activities tends to vary directly with the efficiency of lines of communication between points of decision and points at which facts are collected and analyzed.

Propositions relating to "horizontal coördination" and the importance of knowledge as a basis of decision emphasize a phase of administration which deserves particular attention. Information is basic to any improvement in organization routine; it is essential in order to adapt decisions to existing routines; and it is the key to development of an efficient system of communication within an organization. The principles involved suggest the importance of certain democratic processes within administration, such as consultation with the minor officials in charge of activities which will be affected by a contemplated decision, and the use of conferences with interested parties outside of the administration when decisions may affect personal rights of citizens.

But it is not the purpose of this article to apply the hypotheses which have been set forth. A few "axioms" and "propositions" have been presented in the hope that they will be scrutinized and tested in the light of experience, that those parts which are found good may be retained while other parts may be modified or discarded, and that many other hypotheses may be added thereto. Finally, the writer hopes that, by extension and improvement of the above method of approach, a body of theory may be found adequate to support and guide the empirical studies necessary to the development of what may be called, without apologies, a science of administration.

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The Lack of a Budgetary Theory. On the most significant aspect of public budgeting, i.e., the allocation of expenditures among different purposes so as to achieve the greatest return, American budgetary literature is singularly arid. Toilers in the budgetary field have busied themselves primarily with the organization and procedure for budget preparation, the forms for the submission of requests for funds, the form of the budget document itself, and like questions.[1] That these things have deserved the consideration given them cannot be denied when the unbelievable resist-

[1] See A. E. Buck, *Public Budgeting* (New York, 1929); J. Wilner Sundelson, *Budgetary Methods in National and State Governments* (New York State Tax Commission, Special Report No. 14, 1938); *ibid.*, "Budgetary Principles," *Political Science Quarterly*, Vol. 50, pp. 236–263 (1935).

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ance to the adoption of the most rudimentary essentials of budgeting is recalled and their unsatisfactory condition in many jurisdictions even now is observed. Nevertheless, the absorption of energies in the establishment of the mechanical foundations for budgeting has diverted attention from the basic budgeting problem (on the expenditure side), namely: On what basis shall it be decided to allocate x dollars to activity A instead of activity B?

Writers on budgeting say little or nothing about the purely economic aspects of public expenditure. "Economics," says Professor Robbins, "is the science which studies human behavior as a relationship between ends and scarce means which have alternative uses."[2] Whether budgetary behavior is economic or political is open to fruitless debate; nevertheless, the point of view and the mode of thought of the economic theorist are relevant, both in the study of and action concerning public expenditure. The budget-maker never has enough revenue to meet the requests of all spending agencies, and he must decide (subject, of course, to subsequent legislative action) how scarce means shall be allocated to alternative uses. The completed budgetary document (although the budget-maker may be quite unaware of it) represents a judgment upon how scarce means should be allocated to bring the maximum return in social utility.[3]

In their discussions of the review of estimates, budget authorities rarely go beyond the question of how to judge the estimates for particular functions, i.e., ends; and the approach to the review of the estimate of the individual agency is generally directed toward the efficiency with which the particular end is to be achieved.[4] Even in this sort of review, budget-makers have developed few standards of evaluation, acting, rather, on the basis of their impressionistic judgment, of a rudimentary cost accounting, or, perhaps, of the findings of administrative surveys. For decisions on the requests of individual agencies, the techniques have by no means reached perfection.[5] It is sometimes possible to compute with fair accuracy

[2] Lionel Robbins, *An Essay on the Nature and Significance of Economic Science* (2nd ed., London, 1935), p. 16.

[3] If the old saying that the state fixes its expenditures and then raises sufficient revenues to meet them were literally true, the budget officer would not be faced by a problem of scarcity. However, there is almost invariably a problem of scarcity in the public economy—to which all budget officers, besieged by spending departments, will testify.

[4] See Buck, *op. cit.*, Chap. 11.

[5] The development of standards for the evaluation of the efficiency of performance of particular functions—entirely apart from the value of the functions—is as yet in a primitive stage. Such standards, for budgetary purposes at least, require cost accounting, which implies a unit of measurement. A standard of comparison is also implied, such as the performance of the same agency during prior fiscal periods, or the performance of other agencies under like conditions. In the absence of even crude measurement devices, budgetary and appropriating authorities are frequently thrown back upon the alternative of passing on individual items—three

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whether the increased efficiency from new public works, such as a particular highway project, will warrant the capital outlay. Or, given the desirability of a particular objective, it may be feasible to evaluate fairly precisely alternative means for achieving that end. Whether a particular agency is utilizing, and plans to utilize, its resources with the maximum efficiency is of great importance, but this approach leaves untouched a more fundamental problem. If it is assumed that an agency is operating at maximum efficiency, the question remains whether the function is worth carrying out at all, or whether it should be carried out on a reduced or enlarged scale, with resulting transfers of funds to or from other activities of greater or lesser social utility.

Nor is there found in the works of the public finance experts much enlightenment on the question herein considered. They generally dispose of the subject of expenditures with a few perfunctory chapters and hurry on to the core of their interest—taxation and other sources of revenue. On the expenditure side, they differentiate, not very plausibly, between productive and unproductive expenditure; they consider the classification of public expenditures; they demonstrate that public expenditures have been increasing; and they discuss the determination of the optimum aggregate of public expenditure; but they do not generally come to grips with the question of the allocation of public revenues among different objects of expenditure.[6] The issue is recognized, as when Pigou says: "As regards the distribution, as distinct from the aggregate cost, of optional government expenditure, it is clear that, just as an individual will get more satisfaction out of his income by maintaining a certain balance between different sorts of expenditure, so also will a community through its government. The principle of balance in both cases is provided by the postulate that resources should be so distributed among different uses that the marginal return of satisfaction is the same for all of them. . . . Expenditure should be distributed between battleships and poor relief in such wise that the last shilling devoted to each of them yields the same real return. We have here, so far as theory goes, a test by means of which the distribution of expenditure along different lines can be settled."[7] But Pigou dismisses the

clerks, two messengers, seven stenographers, etc.—a practice which often causes exasperation among operating officials. Although our knowledge of budgetary behavior is slight, the surmise is probably correct that questions of the efficiency of operation in achieving a particular end are generally hopelessly intermingled with the determination of the relative value of different ends. Operating officials often shy away from experimentation with devices of measurement, but it may be suggested that measures of the efficiency of performance should tend to divert the attention of budgetary and appropriating officials from concern with internal details to the pivotal question of the relative value of services.

[6] See, for example, H. L. Lutz, *Public Finance.*

[7] *A Study in Public Finance* (London, 1928), p. 50. See also E. R. A. Seligman,

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subject with a paragraph, and the discussion by others is not voluminous.[8]

The only American writer on public finance who has given extended attention to the problem of the distribution of expenditures is Mabel Walker. In her *Municipal Expenditures*, she reviews the theories of public expenditure and devises a method for ascertaining the tendencies in distribution of expenditures on the assumption that the way would be pointed to "a norm of expenditures consistent with the state of progress at present achieved by society." While her method would be inapplicable to the federal budget,[9] and would probably be of less relevance in the analysis of state than of municipal expenditures, her study deserves reflective perusal by municipal budget officers and by students of the problem.[10]

Literature skirting the edges of the problem is found in the writings of those economists who have concerned themselves with the economic problems of the socialist state. In recent years, a new critique of socialism has appeared.[11] This attack, in the words of one who attempts to refute it, is " . . . more subtle and technical than the previous ones, based on the supposed inability of a socialist community to solve purely economic problems. . . . What is asserted is that, even with highly developed technique, adequate incentives to activity, and rational control of population, the economic directors of a socialist commonwealth would be unable to balance against each other the worthwhileness of different lines of production or the relative advantages of different ways of producing the same good."[12] Those who believe this problem not insoluble in a socialist economy set out to answer the question: "What is the proper method of determining just what commodities shall be produced from the economic resources at the disposal of a given community?"[13] One would anticipate

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"The Social Theory of Fiscal Science," *Political Science Quarterly*, Vol. 41, pp. 193–218, 354–383 (1926), and Gerhard Colm, "Theory of Public Expenditures," *Annals of the American Academy of Political and Social Science*, Vol. 183, pp. 1–11 (1930).

[8] For a review of the literature, see Mabel L. Walker, *Municipal Expenditures* (Baltimore, 1930), Chap. 3.

[9] In this connection, see C. H. Wooddy, *The Growth of the Federal Government, 1915–1932* (New York, 1934).

[10] In the field of state finance, a valuable study has been made by I. M. Labovitz, in *Public Policy and State Finance in Illinois* (Social Science Research Committee, University of Chicago. Publication pending).

[11] See F. A. von Hayek (ed.), *Collectivist Economic Planning* (London, 1935).

[12] H. D. Dickinson, "Price Formation in a Socialist Community," *Economic Journal*, Vol. 43, pp. 237–250. See also, E. F. M. Durbin, "Economic Calculus in a Planned Economy," *Economic Journal*, Vol. 46, pp. 676–690 (1936), and A. R. Sweezy, "The Economist in a Socialist Economy," in *Explorations in Economics; Notes and Essays Contributed in Honor of F. W. Taussig* (1936), pp. 422–433.

[13] F. M. Taylor, "The Guidance of Production in a Socialist State," *American Economic Review*, Vol. 19, pp. 1–8 (1929).

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from those seeking to answer this question some light on the problems of the budget-maker in a capitalist state. But they are concerned only with the pricing of state-produced goods for sale to individuals in a socialist economy. Professor Dickinson, for example, excludes from his discussion goods and services provided in a socialist economy "free of charge to all members of society, as the result of a decision, based on other grounds than market demands, made by some authoritative economic organ of the community."[14] That exclusion removes from consideration the point at issue. Nevertheless, the critics of socialist theory do at least raise essentially the same problem as that posed in the present discussion; and their comment is suggestive.

Various studies of the economics of public works touch the periphery of the problem concerning the allocation of public expenditures. The principal inquiries have been prosecuted under the auspices of the National Resources Planning Board and its predecessor organizations. These reports, however, are concerned in the main with the question of how much in the aggregate should be spent, and when, in order to function as the most effective absorber of the shocks incidental to cyclical fluctuations. Two studies, by Arthur D. Gayer and John M. Clark, deal with public works outlays as stabilizers of the economic order and with related matters.[15] These works suggest factors relevant in the determination of the total amount of the capital budget; but in them the problem of selection among alternative public works projects is not tackled. In another study, the latter issue is approached by Russell V. Black from a rich background of city planning experience, and he formulates a suggestive but tentative set of criteria for the selection and programming of public works projects.[16]

Planning agencies and professional planners have been more interested in the abstract problem of ascertaining the relative utility of public outlays than has any other group. The issue is stated theoretically in a recent report: "The problem is essentially one of the development of criteria for selecting the objects of public expenditure. As a larger and larger proportion of the national income is spent for public purposes, the sphere of the

[14] *Op. cit.*, p. 238. Of Soviet Russia, Brown and Hinrichs say: "In a planned economy, operating if necessary under pressure to accomplish a predetermined production, the decision with regard to major prices is essentially a political one." "The Planned Economy of Soviet Russia," *Political Science Quarterly*, Vol. 46, pp. 362–402 (1931).

[15] J. M. Clark, *Economics of Planning Public Works* (Washington, Government Printing Office, 1935); A. D. Gayer, *Public Works in Prosperity and Depression* (New York, National Bureau of Economic Research, 1935). See also the essay by Simeon E. Leland in National Resources Committee, *Public Works Planning* (Washington, Government Printing Office, 1936).

[16] *Criteria and Planning for Public Works* (Washington, National Resources Board, mimeographed, 1934). See especially pp. 165–168.

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price system with its freedom of choice of objects of expenditure is more and more restricted. Concurrently, the necessity for developing methods by which public officials may select objects of expenditure which will bring the greatest utility or return and most accurately achieve social aspirations becomes more pressing. In a sense, this constitutes the central problem of the productive state. If planning is to be 'over-all' planning, it must devise techniques for the balancing of values within a framework that gives due regard both to the diverse interests of the present and to the interests of the future."[17] Planning agencies have not succeeded in formulating any convincing principles, either descriptive or normative, concerning the allocation of public funds, but they have, within limited spheres, created governmental machinery facilitating the consideration of related alternative expenditures. The most impressive example is the Water Resources Committee (of the National Resources Planning Board) and its subsidiary drainage-basin committees.[18] Through this machinery, it is possible to consider alternatives in objectives and sequences of expenditure—questions that would not arise concretely without such machinery. Perhaps the approach toward the practical working out of the issue lies in the canalizing of decisions through the governmental machinery so as to place alternatives in juxtaposition and compel consideration of relative values. This is the effect of many existing institutional arrangements; but the issue is rarely so stated, and the structure of government, particularly the federal-state division, frequently prevents the weighing of alternatives.

It may be argued that for the best performance of individual public functions a high degree of stability in the amount of funds available year after year is desirable, and that the notion that there is, or needs to be, mobility of resources as among functions is erroneous. Considerable weight is undoubtedly to be attached to this view. Yet over periods of a few years important shifts occur in relative financial emphasis on different functions of government. Even in minor adjustments, the small change up or down at the margin may be of considerable significance. Like an individual consumer, the state may have certain minimum expenditures generally agreed upon, but care in weighing the relative utility of alternative expenditures

[17] National Resources Committee, *The Future of State Planning* (Washington, Government Printing Office, 1938), p. 19. Mr. J. Reeve has called my attention to the fact that the problem of allocation of public expenditures has come to be more difficult also because of the increasingly large number of alternative purposes of expenditure.

[18] For an approach to the work of the Water Committee in terms somewhat similar to those of this paper, see National Resources Committee, *Progress Report*, December, 1938, pp. 29–36. For an example of the work, see National Resources Committee, *Drainage Basin Problems and Programs, 1937 Revision* (Washington, Government Printing Office, 1938).

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becomes more essential as the point of marginal utility is approached. Moreover, within the public economy, frictions (principally institutional in character) exist to obstruct and delay adjustments in the allocation of resources in keeping with changing wants probably to a greater extent than in the private economy.

Efforts to ascertain more precisely the relative "values" of public services may be thought fruitless because of the influence of pressure groups in the determination of the allocation of funds. Each spending agency has its clientele, which it marshals for battle before budgetary and appropriating agencies.[19] And there are those who might contend that the pattern of expenditures resultant from the interplay of these forces constitutes a maximization of return from public expenditure, since it presumably reflects the social consensus on the relative values of different services. If this be true, the more efficient utilization of resources would be promoted by the devising of means more accurately to measure the political strength of interests competing for appropriations. That the appropriation bill expresses a social consensus sounds akin to the mystic doctrine of the "general will." Constantly, choices have to be made between the demands of different groups; and it is probably true that factors other than estimates of the relative political strength of contending groups frequently enter into the decisions. The pressure theory suggests the potential development in budget bureaus and related agencies of a strong bureaucracy strategically situated, and with a vested interest in the general welfare, in contrast with the particularistic drives of the spending agencies.

It is not to be concluded that by excogitation a set of principles may be formulated on the basis of which the harassed budget official may devise an automatic technique for the allocation of financial resources. Yet the problem needs study in several directions. Further examination from the viewpoints of economic theory and political philosophy could produce valuable results. The doctrine of marginal utility, developed most finely in the analysis of the market economy, has a ring of unreality when applied to public expenditures. The most advantageous utilization of public funds[20] resolves itself into a matter of value preferences between ends lacking a common denominator. As such, the question is a problem in political philosophy; keen analyses in these terms would be of the utmost

[19] See E. B. Logan, "Group Pressures and State Finance," *Annals of the American Academy of Political and Social Science*, Vol. 179, pp. 131–135 (1935), and Dayton David McKean, *Pressures on the Legislature of New Jersey* (New York, 1938), Chap. 5.

[20] This matter is really another facet of the problem of the determination of the "public interest" with which E. P. Herring grapples in *Public Administration and the Public Interest.*

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importance in creating an awareness of the problems of the budgetary implementation of programs of political action of whatever shade. The discussion also suggests the desirability of careful and comprehensive analyses of the budgetary process. In detail, what forces go into the making of state budgets? What factors govern decisions of budgetary officials? Precisely what is the rôle of the legislature? On the federal level, the field for inquiry is broader, including not only the central budgetary agency, but departmental budget offices as well. Studies of congressional appropriating processes are especially needed.[21] For the working budget official, the implications of the discussion rest primarily in a point of view in the consideration of estimates in terms of alternatives—decisions which are always made, but not always consciously. For the personnel policy of budget agencies, the question occurs whether almost sole reliance on persons trained primarily in accounting and fiscal procedure is wise. The thousands of little decisions made in budgetary agencies grow by accretion into formidable budgetary documents which from their sheer mass are apt often to overwhelm those with the power of final decision. We need to look carefully at the training and working assumptions of these officials, to the end that the budget may most truly reflect the public interest.[22]

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[21] For such studies, useful methodological ideas might be gleaned from Professor Schattschneider's *Politics, Pressures, and the Tariff.*

[22] Helpful comments by I. M. Labovitz and Homer Jones on a preliminary draft of this paper are hereby acknowledged.

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RURAL LOCAL GOVERNMENT

County and Township Government in 1939.* Recent years have witnessed a growing interest in the problems of local government in rural areas. Increasing demands upon the taxpayer for the support of government and its services have emphasized the need for modernization of our local political institutions. Although advances in this direction are inevitably slow, each year brings some progressive steps, the cumulative effect of which, over a number of years, should be considerable. In 1939, with most state legislatures in session, numerous statutes were enacted which had as their purpose the readjustment of governmental areas or functions, the improvement of local-government organization or finance, or the promotion of coöperation among various governmental units. At the same time, there were instances in which local units themselves sought, under existing authority, to undertake the performance of new services or to provide their inhabitants with governmental forms or procedures better suited to present-day needs. As in previous years,[1] the developments of 1939 will be summarized under the following headings: (1) areas; (2) organization and personnel; (3) functions; (4) finance; (5) optional charters; and (6) intergovernmental relations.

I. AREAS

Territorial Consolidation. The outstanding effort of the year to foster a program of county consolidation was made by Tennessee, a state wherein interest in consolidation has been accelerated during recent years by reduction of the local tax base resulting from the acquisition of property by the federal government in connection with the T.V.A. program. A state consolidation committee composed of the governor and certain other state officers was established to act with local committees in working out consolidation plans. The machinery for consolidation is set in motion by petition of the voters of the county seeking to be absorbed by another county. Upon the filing of such a petition, signed by voters equal in number to 25 per cent of the votes cast in the county in the last gubernatorial election, the state consolidation committee appoints a county consolidation committee. If the state and county committees, acting jointly, recommend consolidation, an election on the question is held in the petitioning county, and consolidation is effected if two-thirds of the qualified voters

* For the collection and preliminary analysis of much of the material used in the preparation of this article, the writer is indebted to Mr. Thomas L. Waters and Mr. Joseph Deutsch, students in the College of Law and College of Commerce, respectively, of the University of Illinois. These students were employed on N.Y.A. funds supplied to the University of Illinois.

[1] See this REVIEW, Vol. 31, pp. 884–913; Vol. 32, pp. 936–956; Vol. 33, pp. 1058–1072.

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vote in favor thereof. In the event of consolidation, the indebtedness of the petitioning county is to be assumed by the absorbing county; but a tax may be levied upon property within the limits of the petitioning county to liquidate such indebtedness. As an inducement to consolidation, the state is authorized to make money grants to both the petitioning county and the absorbing county for the payment of expenses incident to consolidation proceedings. The consolidation act authorizes not only the merger of two or more counties, but also the absorption of portions of a county by two or more adjacent counties. In April, 1939, acting under authority of the new law, the voters of Union county, nearly 42 per cent of the area of which has been acquired by the Tennessee Valley Authority for the Norris Lake reservoir, filed a petition for annexation of that county to adjacent Knox county (containing the city of Knoxville), but at the end of the year no further action had been taken on the proposal.[2] County consolidation seems to be receiving serious consideration in Georgia, where a proposal to reduce the number of counties from 159 to 60 was presented to the 1939 legislative session.[3]

The relationship between county and city government in metropolitan regions continued to receive considerable attention. Interest in some form of city-county consolidation or separation was reported from several such areas, including those of Atlanta, Cleveland, Los Angeles, Louisville, and San Diego. Arkansas abolished local road districts within the various counties and established in each county a single road district coëxtensive with the county. On the other hand, there were occasional instances of opposition to territorial consolidation or of a disposition to discourage consolidation. In Indiana, for example, any desire on the part of county boards to consolidate townships will be rendered difficult of fulfillment by an act requiring petition by a majority of the freeholders of each township concerned as a condition precedent to any alteration of township boundaries by the county board.[4]

New Areas. Ten states during the year enacted new soil conservation district enabling acts, while eight others amended existing statutes relating to such districts. Nearly all of the new acts and several of the

[2] *Public Acts of Tennessee*, 1939, chs. 224, 225, 226; Lee S. Greene, "County Consolidation Encouraged in Tennessee," *Public Management*, Vol. 21, pp. 213–214 (July, 1939); Frank W. Prescott, note in *National Municipal Review*, Vol. 28, pp. 312–314 (Apr., 1939); Lyndon E. Abbott, note in *ibid.*, p. 391 (May, 1939); M. H. Satterfield, "Tennessee Counties Stand Pat," *ibid.*, Vol. 29, pp. 26–29 (Jan., 1940).

[3] See J. Thomas Askew, "Georgia Counties Overshadowed by State Centralization," *National Municipal Review*, Vol. 28, pp. 271–274 (Apr., 1939); Cullen B. Gosnell, "Georgia Counties Face Financial Dilemma," *ibid.*, pp. 355–357 (May, 1939).

[4] *Acts of Arkansas*, 1939, no. 379; *Laws of Indiana*, 1939, ch. 150.

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amendments provide that only owners of land may sign petitions for the organization of districts and vote in the various referenda, thus varying from the original provisions of the standard act which permitted occupiers of land to petition and vote.[5] The Oklahoma legislature created the Fairfax-Kaw City Authority, a conservation and reclamation district embracing the territory of six counties, with power to control and store the water of the Arkansas River and its tributaries; use, distribute, and sell such water; generate water power and electric energy; prevent damage from floods; forest and reforest the watershed area; and prevent soil erosion.[6] Other *ad hoc* districts established or authorized in various states during the year, by general or special act, include fire protection districts; flood control districts; water conservation districts; noxious weed control districts; health districts; mosquito control districts; wild life districts; water and sanitation districts; citrous pest control districts; lighting districts; and park, recreation, and parkway districts. Of interest as an effort to reduce the overlapping of governmental units is an act of California authorizing the board of supervisors of any county to appoint a commission on district boundaries, composed of the auditor, the assessor, and three other county officials, to consider proposals to create new districts or change the boundaries of existing districts and report recommendations to the board of supervisors prior to action by that body upon such proposals.[7]

Abandonment of Areas. North Dakota enacted legislation whereby any county of less than 4,000 population may deorganize its governmental machinery and become attached to an adjoining county for the performance of essential governmental functions. The law was passed particularly with a view to providing a means of relief to sparsely-settled rural counties faced with a declining tax base as a result of federal land purchases and reduced real estate values, mounting tax delinquency, and the consequent rise in floating and bonded indebtedness. Deorganization may be effected by petition of 20 per cent of the county voters, followed by a favorable popular vote at an election.[8] The unorganized county may make an agreement with an adjoining county for attachment thereto for governmental purposes; otherwise, the governor by proclamation designates

[5] Kenneth Wernimont, "State Rural Land Use Legislation in 1939," *Journal of Land and Public Utility Economics*, Vol. 16, pp. 110–116 (Feb., 1940). See this REVIEW, Vol. 32, p. 937. The states enacting new laws in 1939 were Alabama, Idaho, Iowa, Montana, Oregon, Tennessee, Texas, Vermont, Washington, and West Virginia.

[6] *Harlow's Session Laws of Oklahoma*, 1939, p. 424.

[7] *Statutes of California*, 1939, ch. 1025.

[8] If the petition is signed by more than 50 per cent of the voters of the county, no election is held, but further action upon the petition is by judicial proceedings in the district court.

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the county to which the unorganized county is to be attached. The governing body of the organized county is authorized to levy taxes upon property within the unorganized county to pay any debt of such county as well as the cost of public services rendered to its inhabitants. While this plan of county deorganization and subsequent government by an organized county may offer certain practical advantages over outright consolidation, it is open to the obvious criticism that it leaves the inhabitants of the unorganized county without a voice in their local government. The first North Dakota county to hold a referendum, under the 1939 law, on the question of deorganization, was that of Billings, where the proposition was submitted and defeated in the June primary of 1940.[9]

Missouri amended her statutory provision for the abandonment of township organization in any county by popular vote to require for abandonment only a majority of the votes cast on the question at a general election rather than a majority of all votes cast at the election.[10] This amendment was in conformity to a decision by which the Missouri supreme court, some years ago, held the former requirement invalid as being in conflict with constitutional provisions.

II. ORGANIZATION AND PERSONNEL

New Offices. New county offices established during the last two years have been somewhat less numerous than those created during preceding years. A new office of particular significance established in 1939 was that of county magistrate in Indiana.[11] For many years, the minor courts of Indiana's state judicial system have been presided over by justices of the peace elected by townships and compensated by fees. There, as elsewhere, these courts have been unsatisfactory. In an effort to remedy some of the more serious defects of the justice of the peace system, there has now been established in each county of the state a magistrates' court composed of two or more magistrates appointed by the circuit judge. The new court sits in as many divisions as there are magistrates in the county. Justices of the peace are retained, but are deprived of jurisdiction over traffic cases. The jurisdiction of the magistrates' courts is broader than that of the justices of the peace, including all cases over which the latter have jurisdiction and misdemeanor traffic cases as well. Since magistrates are paid a regular salary and receive no fees, the establishment of the new court should go a long way toward elimination of the speed-trap evil.

Action of a somewhat similar nature was taken by the Tennessee legis-

[9] *Laws of North Dakota*, 1939, ch. 122; Kenneth Wernimont, "County Disorganization for North Dakota," *National Municipal Review*, Vol. 28, pp. 769–772 (Nov., 1939); letter to the writer from J. F. Tester, auditor of Billings county, Medora, North Dakota, Oct. 2, 1940.

[10] *Laws of Missouri*, 1939, p. 885.

[11] *Laws of Indiana*, 1939, ch. 164.

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lature with respect to the counties of Knox, Robertson, Trousdale, and Williamson. By special acts, a court of general sessions was established in each of those counties to take over the civil and criminal jurisdiction previously exercised by justices of the peace. The Knox county court will consist of three judges, and the courts of the other counties of a single judge each. Judges are to be elected for eight-year terms and paid a regular salary from the county treasury. Justices of the peace retain authority to perform marriages and their positions as members of the quarterly court (county board).[12]

Michigan required the establishment of a county airport committee in each county maintaining an airport or landing field. Idaho provided for county weed inspectors in counties containing weed extermination areas. The Oklahoma legislature established the office of public defender in Oklahoma county (containing Oklahoma City). Newberry county, South Carolina, was provided by special act with an agricultural board charged with coöperating with the federal government in the terracing of farm lands and the promotion of erosion control. San Bernardino county, California, reported the employment of a predatory animal control officer.[13]

Office Consolidation. Offsetting in some measure the creation of new offices were certain instances in which the consolidation of existing offices was authorized or effected. Missouri provided that in counties of 20,000 to 50,000 inhabitants the county surveyor shall, after January 1, 1941, be ex officio county highway engineer. This consolidation had previously been made mandatory for a few of the state's most populous counties, but elsewhere was optional with the county court as it continues to be in counties of less than 20,000 population. Several instances of office consolidation were reported to have been effected in California counties. Thus the office of county surveyor was consolidated with the road department in Riverside county; the office of purchasing agent with that of the county clerk in Marin county; the office of highway commissioner with that of surveyor in San Bernardino county; and the office of coroner with that of public administrator in San Luis Obispo county. Considerable interest was displayed in New York City in a proposal to abolish the offices of sheriff and register in the individual counties within the city and to provide instead for one sheriff and one register, appointed by the mayor, for the entire city. A petition for an amendment to the city charter to accomplish this consolidation was prevented by judicial order from coming to a refer-

[12] *Private Acts of Tennessee*, chs. 54, 195, 390, 424. See Paul W. Wager, note in *National Municipal Review*, Vol. 28, p. 475 (June, 1939).

[13] *General Laws of Idaho*, 1939, ch. 235; *Public Acts of Michigan*, 1939, no. 275; *Harlow's Session Laws of Oklahoma*, 1939, p. 160; *Acts and Joint Resolutions of South Carolina*, 1939, p. 188; H. F. Scoville, "Thrift via County Consolidation," *National Municipal Review*, Vol. 28, pp. 708–711 (Oct., 1939).

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endum vote on the ground that it lacked the requisite number of valid signatures.[14]

Term and Removal of Officers. The tendency during recent years to lengthen the term of local offices continued through 1939. North Carolina, which recently extended the terms of the sheriff and coroner by constitutional amendment, enacted a series of special laws extending from two to four years the terms of designated offices in particular counties. The offices most commonly affected were those of county commissioner, register of deeds, surveyor, and judge of the recorder's court. In most instances the longer term was mandatory, although in a few cases it was made optional with the county electorate. Legislative proposal was made in Florida of a constitutional amendment to provide a four-year term, in place of the present two-year term, for county commissioners. Nebraska lengthened from two years to four the term of township supervisors. A new slot-machine law in Oklahoma makes sheriffs, county attorneys, constables, and police officers subject to removal from office for knowingly permitting violations of the act.[15]

County and Town Executives. Some progress was made during the year in the direction of providing rural local governments with responsible administrative heads. An amendment to the North Dakota constitution[16] requiring the legislature to provide for optional forms of county government stipulates that at least one of the optional forms shall provide for a county manager. Efforts to clear the way for county-manager government were renewed in Nebraska. The supreme court of that state, in 1936, held an optional manager statute unconstitutional on the ground that all county officers must, under the Nebraska constitution, be elected. In 1939, therefore, the legislature approved a proposal for a constitutional amendment authorizing the legislature to provide for an optional form of county government in which county officers may be either elected or appointed. The proposed amendment will be submitted to the voters in the November election of 1940.[17]

In North Carolina, the board of county commissioners of Alamance county was authorized to elect one of its members chairman of the board and administrative head of the county government; the Burke county board was empowered to designate one of its members as part-time county manager; while in Haywood county the duties of manager were conferred

[14] *Laws of Missouri*, 1939, p. 674; H. F. Scoville, *loc. cit.;* Paul W. Wager, notes in *National Municipal Review*, Vol. 28, pp. 475, 667, 806 (June, Sept., Nov., 1939).

[15] *General Acts and Resolutions of Florida*, 1939, p. 1665; *Session Laws of Nebraska*, 1939, ch. 134; *Public-Local Laws of North Carolina*, 1939, chs. 259, 263, 266, 386, 429, 451; *Harlow's Session Laws of Oklahoma*, 1939, p. 16.

[16] See *infra*, "Optional Charters."

[17] *Session Laws of Nebraska*, 1939, ch. 25. See this REVIEW, Vol. 31, pp. 890, 907.

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by law upon the chairman of the county board.[18] The county-executive problem continued to provide a center of interest in several California counties. In Los Angeles county, the chief administrative office established by ordinance in 1938 was reported to be operating satisfactorily and effecting substantial economies. It appeared that, if the initial success of the plan should continue, the board of supervisors might submit to the voters a proposal to establish the manager plan by charter amendment. The Butte county board of supervisors appointed an executive secretary who will be vested with some managerial powers. San Mateo county, which in 1938 made the office of county executive elective, in 1939 defeated a proposed charter amendment which would have abolished the office entirely.[19] Serious consideration of manager government seems to be taking place in Fulton county (Atlanta), Georgia. There has been a grand jury recommendation that the manager plan be adopted for that county; and during the year the Fulton county commissioners were reported to be contemplating the inauguration of a modified manager system by imposing managerial duties upon the clerk of the county commission.[20]

Bills to provide the manager system as an optional form of county government were considered, but not passed, by the legislatures of Colorado, Kansas, and Oregon. In the November election of 1939, the voters of Onondaga county (Syracuse), New York, defeated a proposed new charter providing for a county manager.[21]

The manager plan seems to be gaining in popularity among New England towns. In its 1939 session, the Maine legislature enacted manager charters, subject to local referenda, for the towns of Caribou, Houlton, Lincoln, Lisbon, and Norway. Of these charters, those for Caribou and Houlton were adopted by the local voters during the year, and that for Lincoln was adopted in January, 1940. Of more significance for the future, perhaps, was the enactment of a general enabling law authorizing any Maine town to employ, or to join with one or more other towns in employing, a manager. The provision of this act for joint managers should make it financially feasible for less populous towns to adopt the manager system. In Vermont, the towns of Barre, Castleton, and Ludlow adopted manager government by action of their respective town meetings, the town of Ludlow employing a manager jointly with the village of the same name. The

[18] *Public-Local Laws of North Carolina*, 1939, chs. 187, 342, 488.

[19] H. F. Scoville, "Thrift via County Consolidation," *National Municipal Review*, Vol. 28, pp. 708–711 (Oct., 1939); John McDiarmid, "Streamlined County Government—Los Angeles Style," *ibid.*, pp. 757–763 (Nov., 1939); Paul W. Wager, notes in *ibid.*, pp. 551, 876–877 (July, Dec., 1939). See this REVIEW, Vol. 33, p. 1060.

[20] Paul W. Wager, note in *National Municipal Review*, Vol. 28, p. 474 (June, 1939); H. M. Olmsted, note in *ibid.*, Vol. 29, p. 58 (Jan., 1940).

[21] Paul W. Wager, notes in *National Municipal Review*, Vol. 28, pp. 314, 474, 475, 877 (April, June, Dec., 1939).

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town of Bar Harbor, Maine, voted in town meeting to appoint a committee to draw up a manager charter, which, if approved by a special town meeting, should be submitted to the state legislature with the request that it be enacted as a law. Likewise in town meeting, the town of Angus, Massachusetts, appointed a committee to investigate the feasibility of the manager plan.[22]

Personnel Administration. The Alabama legislature established a merit system for Mobile county similar to that provided four years earlier for Jefferson county.[23] A citizens' supervisory committee elects a personnel board, which in turn appoints a personnel director. These personnel agencies serve not only the county government, but also the cities of Mobile, Citronelle, and Prichard within the county.[24] North Carolina provided a civil service commission for New Hanover county; while in Georgia the constitution was amended to authorize the legislature to establish a merit system for Fulton county.[25] California authorized any county to adopt a limited merit system applicable to any or all appointive county officers and employees. Adoption is by ordinance of the county legislative body ratified by popular vote. In each county adopting such a system there is to be a five-member civil service commission appointed by the county legislative body. The Wisconsin legislature provided that the voters of any county, by use of the initiative and referendum, might establish a merit system applicable to all county personnel except members of the county governing body, elective constitutional officers, members of boards and commissions, and members of the judiciary. The state attorney-general, however, has ruled that, under the Wisconsin constitution as interpreted by the courts, this statute is invalid as an unconstitutional attempt to delegate legislative power to the county voters.[26] A territorial

[22] *Public Laws of Maine*, 1939, ch. 130; *Private and Special Laws of Maine*, 1939, chs. 3, 46, 61, 62, 72; Orren C. Hormell, note in *National Municipal Review*, Vol. 28, pp. 547–548 (July, 1939); Howard P. Jones, note in *ibid.*, p. 268 (Apr., 1939); H. M. Olmsted, notes in *ibid.*, pp. 386, 466 (May, June, 1939); John Iglauer, "Council-Manager Government," *Municipal Year Book*, 1940, pp. 242–247; *City Manager's News Letter* (International City Manager's Association, Chicago), May 1, 1939, Feb. 1, 1940.

[23] See this REVIEW, Vol. 32, p. 943 (Oct., 1938).

[24] Weldon Cooper, *Municipal Government and Administration in Alabama* (University, Alabama, 1940), pp. 134–136. The law of 1935 establishing the Jefferson county personnel board was amended to place the municipalities of Fairfield, Homewood, and Tarrant City under the board's jurisdiction. Jurisdiction over the cities of Birmingham and Bessemer had been conferred upon the board by the original act.

[25] *Acts and Resolutions of Georgia*, 1939, p. 36; *Public-Local Laws of North Carolina*, 1939, ch. 578; letter to the writer from John B. Wilson, secretary of state of Georgia, Atlanta, Sept. 28, 1940.

[26] *Statutes of California*, 1939, ch. 982; *Wisconsin Session Laws*, 1939, ch. 263; Frederick N. MacMillin, note in *National Municipal Review*, Vol. 29, pp. 130–131 (Feb., 1940).

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law of Hawaii effective July 1, 1939, provided, in addition to a territorial commission, local civil service commissions for the city and county of Honolulu and for the counties of Hawaii, Maui, and Kauai. The counties may, however, instead of appointing their own local commissions, utilize the personnel services of the territorial commission.[27]

An outstanding development in the field of personnel administration was the enactment in several states of legislation authorizing the establishment of retirement systems for county employees. Three states—California, Illinois, and North Carolina—provided that counties, like other local units, might, at their option, participate in state-wide retirement plans. The Illinois and North Carolina laws provide for a special state-wide retirement fund for local-government employees; while the law of California authorizes the participation of local employees in a retirement fund established for state employees. Entry of a county into the retirement system is made in Illinois by popular vote, in North Carolina by resolution of the board of county commissioners, and in California by means of a contract between the county board of supervisors and the board of administration of the state retirement system.[28] A fourth statute of general state-wide application relating to county retirement systems is the Wisconsin act mentioned in the preceding paragraph. This act, the validity of which seems to be in doubt, provides that any county may establish a retirement system by initiative and referendum.

In addition to authorizing counties to participate in the state retirement fund, California provided that any county might, by a four-fifths vote of the board of supervisors, establish a county retirement system for county foresters, fire wardens, and fire protection district firemen. The legislature of Oregon enacted two laws relating to the retirement of county employees in Multnomah county. One of these requires the county board to establish a retirement system upon vote therefor by a majority of the county employees; while the other authorizes the county board to retire on pension present employees who have served for twenty years and are now incapacitated. In Georgia, the legislature provided a pension system for county police in Fulton county; and the state constitution was amended to provide that the legislature may authorize the same county to establish a retirement system for county employees generally.[29]

[27] Frederick Ohrt, note in *National Municipal Review*, Vol. 28, pp. 467–468 (June, 1939).

[28] *Statutes of California*, 1939, ch. 954; *Laws of Illinois*, 1939, p. 355; *Public Laws of North Carolina*, 1939, ch. 390; note in *Public Management*, Vol. 21, p. 250 (Aug., 1939). The Illinois law does not apply to Cook county, which is already provided with a retirement system.

[29] *Statutes of California*, 1939, ch. 174; *Acts and Resolutions of Georgia*, 1939, pp. 39, 278; *Oregon Laws*, 1939, chs. 290, 337; letter to the writer from John B. Wilson, secretary of state of Georgia, Atlanta, Sept. 28, 1940. Cf. note 25 above.

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III. FUNCTIONS

New Functions. New functions conferred upon counties and towns during the year were of varied character. For convenience, the more important of these may be divided roughly into groups depending upon whether they are concerned with housing and welfare, provision of recreational facilities, promotion of agriculture and conservation of farm lands, exercise of regulatory authority, or promotion of local prosperity through public expenditures for advertising purposes.

Washington's housing authority law of 1939 authorized the establishment of county housing authorities, bringing to 17 the number of state enabling acts which permit the creation of county authorities through which rural housing projects can be undertaken. The year saw decisions sustaining the validity of public housing legislation handed down by the highest courts of twelve states.[30] At the end of the year, 39 county housing authorities had been established in 14 states, exclusive of those of the city-counties of Denver and San Francisco. By early 1940, six projects in rural areas which had been approved for U.S.H.A. loan contractors were reported to be nearing the construction stage. Located in Arkansas, Georgia, Illinois, Indiana, Mississippi, and South Carolina, these projects will comprise a total of about 1,300 individual frame dwellings to be built on farms scattered throughout the respective counties.[31] The citizens of Enfield, Connecticut, in town meeting, instructed the selectmen of the town to establish a local housing authority. This was the first town in the country to take such action through the medium of the town meeting.[32] Certain welfare activities other than housing were authorized by statute. Georgia, for example, implementing a constitutional amendment of the preceding year, authorized counties to levy a tax to provide medical care and hospitalization for the indigent. The Washington counties of King (Seattle), Pierce (Tacoma), and Spokane were authorized to establish legal aid bureaus; while first-class counties in New Mexico were empowered to provide juvenile detention homes.[33]

The counties of Arizona were authorized to acquire and operate public parks. California counties were empowered to provide free music in connection with county-owned parks, and to establish and conduct playgrounds and recreation centers. Florida authorized Dade county (Miami)

[30] *Session Laws of Washington*, 1939, ch. 23; Nathan Straus, "Half Million Families to be Housed in New Public Projects," *State Government*, Vol. 13, pp. 59–62, 72 (Apr., 1940).

[31] *Annual Report of the United States Housing Authority*, 1939, pp. 36–37; Nathan Straus, *loc. cit.*

[32] Note in *Public Management*, Vol. 21, p. 345 (Nov., 1939).

[33] *Acts and Resolutions of Georgia*, 1939, p. 20; *Laws of New Mexico*, 1939, ch. 75; *Session Laws of Washington*, 1939, ch. 93.

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to provide park and recreation systems and auditoriums.[34] The statutes empowering counties to provide park and recreational facilities frequently authorized the provision of such facilities by a county either alone or in coöperation with other counties, municipalities, or the federal government.

State legislatures gave considerable attention to the promotion of agriculture and the conservation of farm lands, and in several instances new powers in pursuance of these purposes were conferred upon counties. Oklahoma authorized counties to abate wind-erosion hazards, and to expend public funds for insect eradication. South Carolina provided that counties and other political subdivisions might construct and operate sweet potato starch factories. A special county problem during recent years in those states in which tax-delinquent lands revert to the counties has been the management and disposal of such lands. Oregon, in 1939, authorized counties to reseed tax-acquired lands to forage grasses, and in carrying out this function to coöperate with the federal or state government or with other local governments or private agencies. A new South Dakota law regulating county management of lands acquired for taxes authorizes the leasing of such lands, either without restrictions or subject to grazing regulations prescribed by the board of county commissioners. It is further provided that county lands may be exchanged for other public or private lands when such exchange will promote efficient land administration; and they are to be offered for sale when the board of county commissioners deems advisable or upon petition by another local unit having taxing authority over the lands concerned.[35]

Regulatory and licensing authority for various purposes was conferred upon counties in several states. Boards of county commissioners in Idaho were empowered to set aside footpaths along public roads outside incorporated municipalities for use by pedestrians and bicycles. Montana counties were authorized to establish stock lanes for the driving of livestock. Under a local-option stock law of Alabama, the voters of any county may determine whether or not cattle shall be permitted to run at large. A local-option liquor law of Tennessee provides that any county may, by popular vote, permit or prohibit the sale of alcoholic beverages within its territorial limits. Iowa counties were empowered to require retailers of cigarettes located outside municipal corporations to secure county permits and pay a license fee therefor.[36]

[34] *Acts, Resolutions, and Memorials of Arizona*, 1939, ch. 78; *Statutes of California*, 1939, chs. 497, 558; *General Acts and Resolutions of Florida*, 1939, pp. 489, 1442.

[35] *Harlow's Session Laws of Oklahoma*, 1939, pp. 177, 190; *Oregon Laws*, 1939, ch. 232; *Acts and Joint Resolutions of South Carolina*, 1939, p. 101; *Laws of South Dakota*, 1939, ch. 25.

[36] *General Laws of Idaho*, 1939, ch. 112; *Acts and Joint Resolutions of Iowa*, 1939, ch. 72; *Laws, Resolutions, and Memorials of Montana*, 1939, ch. 63; *Public Acts of*

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The Massachusetts counties of Franklin, Hampden, and Hampshire were added to the list of local units which are authorized by statute to spend public funds for advertising purposes. Each of those counties was authorized to spend not to exceed $5,000 annually for advertising its recreational advantages, provided that the county appropriation does not exceed the sum contributed for the same purpose by public subscription or donation; also to designate an agent or agents to act for the county in advertising matters.[37]

Planning and Zoning. Planning and zoning by counties and towns continued to make progress in the terms both of enabling legislation and of local action thereunder. Colorado enacted legislation conferring planning and zoning powers upon all counties of the state.[38] It appears that official planning agencies now exist in some or all counties of 23 states, while agencies of an unofficial nature are to be found in 13 additional states. The total number of county planning commissions known to exist in these 36 states is 588. Of these, 335 are official and 209 unofficial, with 44 unclassified. Of the 588 commissions, 104 are known to be active, and 79 additional are known to be at least partially active. Among the counties in which extensive planning activities have been, or are being, carried on are Pulaski county, Arkansas; numerous California counties; Fairfield county, Connecticut; Dade county, Florida; Glynn county, Georgia; Bergen county, New Jersey; Broome, Monroe, and Westchester counties, New York; Hamilton county, Ohio; and Clackamas county, Oregon.[39] Most of these counties, it will be noted, are of an urban or semi-urban type.

A 1939 rural zoning law applying to Minnesota counties which contain state or federal forests or state conservation areas will in practice be confined in its application to the northern cutover region of the state. Like Wisconsin's earlier law, the Minnesota statute provides that both the county board and the town boards within the county shall participate in the adoption of a zoning ordinance. Zoning regulations may relate to "the location and the use of buildings and structures and the use, condition of use or occupancy of lands for residence, recreation, agriculture, water conservation, forestry, and other purposes." Either all or only a part of the unincorporated area of the county may be zoned.[40] Several Georgia coun-

Tennessee, 1939, ch. 49; Kenneth Wernimont, "State Rural Land Use Legislation in 1939," *loc. cit.*

[37] *Acts of Massachusetts*, 1939, chs. 105, 106, 107.

[38] *Laws of Colorado*, 1939, ch. 92.

[39] Data supplied by Mr. Walter H. Blucher, executive director, American Society of Planning Officials.

[40] *Session Laws of Minnesota*, 1939, ch. 340; William F. Musbach and Melville C. Williams, "Rural Zoning in Minnesota," *Journal of Land and Public Utility Economics*, Vol. 16, pp. 105–109 (Feb., 1940).

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ties, by special acts, were granted varying degrees of regulatory authority over the use of lands and buildings in unincorporated areas, or the placement of signs and billboards along highways.[41] In Tennessee, Hamilton (Chattanooga) and Davidson (Nashville) counties were authorized by special acts to zone unincorporated areas, the general county zoning law of 1935 having been found inadequate to meet the needs of those counties.[42] Two Kansas zoning acts conferred upon certain counties a limited power to regulate land use in unincorporated areas. Georgia provided a county planning commission for Fulton county; Missouri conferred planning and zoning authority upon St. Louis county; while Florida provided that the counties of Orange, Pinellas, and Polk may zone territory adjoining incorporated cities or towns and within one and one-half miles thereof.[43] The Maryland legislature enacted a zoning enabling law for Anne Arundel county, subject to local referendum in November, 1940.[44] Maine's zoning law applicable to towns was amended to authorize the establishment of zoning adjustment boards, the adjustment function having heretofore been performed by the town selectmen.[45]

In Wisconsin, the state in which rural zoning has made most progress to date, the county boards of Door and Marathon counties were reported to have approved zoning ordinances for consideration by the town boards of their counties; while ordinances were reported as being in preparation in Kenosha, Washington, and Waukesha counties. Marquette and Delta counties, in the upper peninsula of Michigan, became the first counties of that state to adopt rural zoning ordinances under a general enabling act of 1935. The Michigan law, like that of Wisconsin, provides for three types of rural land-use district: recreational, forestry, and unrestricted (agricultural). Three Pennsylvania counties—Allegheny, Bradford, and Monroe—were reported to have taken advantage of planning and zoning enabling legislation enacted by that state in 1937. Lake county, Illinois, the suburban lake-shore county to the north of Cook (Chicago), adopted a zoning ordinance which divides the territory outside incorporated municipalities into industrial, business, residential, and farming districts.[46]

[41] *Acts and Resolutions of Georgia*, 1939, pp. 245, 403, 520, 542, 669, 700; Kenneth Wernimont, "State Rural Land Use Legislation in 1939," *loc. cit.* Among the counties affected were those of Bibb, Camden, Clayton, McIntosh, and Paulding.

[42] *Private Acts of Tennessee*, 1939, chs. 460, 473; Lyndon E. Abbott, note in *National Municipal Review*, Vol. 28, pp. 316–317 (Apr., 1939).

[43] *General Acts and Resolutions of Florida*, 1939, p. 1230; *Acts and Resolutions of Georgia*, 1939, p. 584; *Kansas Session Laws*, 1939, chs. 164, 165; *Laws of Missouri*, 1939, p. 662.

[44] Kenneth Wernimont, "State Rural Land Use Legislation in 1939," *loc. cit.*

[45] *Public Laws of Maine*, 1939, ch. 127; Orren C. Hormell, note in *National Municipal Review*, Vol. 28, p. 550 (July, 1939).

[46] Walter H. Blucher and Paul Oppermann, "Planning and Zoning Developments in 1939," *Municipal Year Book*, 1940, pp. 261–266; Paul W. Wager, note in

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Transfer of Functions. There were a few instances in which the performance of public services was transferred from smaller to larger governmental units, although it cannot be said that any distinct tendency in that direction was apparent. Arkansas transferred local highway administration from road-district subdivisions of the county to the county government. Hereafter roads not included within the state highway system will be constructed and maintained in each county by a three-member county highway commission.[47] Wisconsin provided that county boards might, by resolution, transfer to the state highway system county trunk highways which carry traffic of a specified density.[48] It was reported that 91 Alabama municipalities had, over a period of years, transferred their duties of tax assessment and collection to their respective counties. The city of Three Rivers, Michigan, recently transferred its public health work to a newly-established county health unit.[49]

Functional Consolidation. In 1939, as in several preceding years, state legislation relating to local government included in numerous instances the authorization of functional consolidation. Tennessee counties were authorized to coöperate with municipalities within their boundaries or with adjoining counties in the performance of local services, such coöperation taking the form either of joint performance or of contractual agreement whereby one unit performs services for another. Blanket authority to enter into agreements for the joint or coöperative performance of services was also conferred upon counties and other local units in Wisconsin. Legislation permitting the establishment of joint county or regional libraries was enacted in Montana and West Virginia. Illinois authorized any two or more contiguous counties to incorporate as a tuberculosis sanitarium district.[50]

The Michigan legislature provided for the creation of the Huron-Clinton metropolitan authority for the purpose of constructing and maintaining parks and parkways, which authority is to include such of the counties of Livingston, Macomb, Oakland, Washtenaw, and Wayne as are

National Municipal Review, Vol. 28, p. 876 (Dec., 1939); Elwyn A. Mauck, note in *ibid.*, Vol. 29, p. 131 (Feb., 1940); *Waukegan (Illinois) News-Sun*, April 26, 1939.

[47] *Acts of Arkansas*, 1939, no. 379. See *supra*, "Territorial Consolidation."

[48] *Wisconsin Session Laws*, 1939, ch. 420. The same statute also authorized county boards to request the transfer to the county highway system of state roads carrying traffic of less than designated density.

[49] Note in *Public Management*, Vol. 22, p. 56 (Feb., 1940); Elwyn A. Mauck, note in *National Municipal Review*, Vol. 29, pp. 209–210 (Mar., 1940).

[50] *Laws of Illinois*, 1939, p. 483; *Laws, Resolutions, and Memorials of Montana*, 1939, ch. 132; *Public Acts of Tennessee*, 1939, chs. 222, 223; *Acts of West Virginia*, 1939, ch. 79; *Wisconsin Session Laws*, 1939, ch. 210. For a discussion of constitutional aspects of functional consolidation, see William H. Combs, "City-County Separation and Consolidation in Tennessee," *Tennessee Law Review*, Vol. 16, pp. 217–228 (Feb., 1940).

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contiguous and adopt the provisions of the act at the November election of 1940. Arizona counties were authorized to coöperate with municipalities in the acquisition and operation of parks; while Dade county, Florida, was empowered to coöperate for a like purpose with other counties or with municipalities. Coöperation in providing fire protection was authorized by Nevada and Oklahoma. The Nevada statute permits counties to make agreements with cities for the protection of rural property by city fire departments; while under the Oklahoma law counties and other local units may operate fire protection organizations jointly or contract with each other for the provision of such protection. Texas authorized cities and other taxing units to contract with the county for the assessment and collection of their taxes by county officials. By the terms of a Georgia statute, Fulton county may contract with Atlanta or other cities within the county for the performance of administrative, regulatory, protective, or other governmental functions and services. North Carolina provided that airports or landing fields may be constructed and operated jointly by the counties of Durham and Wake and the cities of Raleigh and Durham. Kalamazoo county, Michigan, and the city of Kalamazoo inaugurated a joint system of medical care for the indigent.[51]

IV. FINANCE[52]

Budgeting and Accounting. Legislation designed to improve county budgeting and accounting was, in comparison with some former years, of modest amount. Wyoming enacted a new county budget law to replace an earlier statute which merely required an annual appropriation resolution based upon estimates made by the county board. The new act prescribes the budget classification to be employed and provides that the budget shall consist of three parts: a budget message and summary, detailed estimates of expenditures and income, and drafts of the resolutions necessary to give effect to the budget plan. Special acts provided budget systems for Harris county (Houston), Texas, and Fulton county (Atlanta), Georgia. Nebraska amended her county budget law of 1937 to provide that budget forms shall be prescribed by state officials. The New Hampshire legislature established a division of municipal accounting in the state tax commission, and required that towns, counties, and other local

[51] *Acts, Resolutions, and Memorials of Arizona*, 1939, ch. 78; *General Acts and Resolutions of Florida*, 1939, p. 1442; *Acts and Resolutions of Georgia*, 1939, p. 261; *Public Acts of Michigan*, 1939, no. 147; *Statutes of Nevada*, 1939, ch. 57; *Public-Local and Private Laws of North Carolina*, 1939, ch. 168; *Harlow's Session Laws of Oklahoma*, 1939, p. 117; *General and Special Laws of Texas*, 1939, p. 652; I. W. Brown, "City-County Medical Service Combined," *Michigan Municipal Review*, Vol. 13, pp. 7, 11 (Jan., 1940).

[52] Various measures of state control over local finance are discussed *infra*, "State-Local Relations."

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units keep uniform accounts on forms prescribed by the division. The division is empowered to audit local accounts upon its own initiative or at the request of the governmental unit concerned.[53]

Of particular interest in the field of local budgeting, although applicable to but a single county, is Oregon's new statute[54] governing the jurisdiction and powers of the tax supervising and conservation commission of Multnomah county (Portland). This three-member state-appointed commission was first established in 1919 with advisory authority over the budgets and tax levies of local governmental units within Multnomah county. In 1921, the commission's authority was strengthened, and from that date onward the agency reviewed the proposed budgets of all taxing units within the county, except minor school districts, with power to reduce or strike out items thereof at its discretion. In 1936, however, the statute of 1921 relating to the commission and its authority was declared invalid by the Oregon supreme court on the ground that it constituted an unreasonable classification of local units as well as an unconstitutional delegation of legislative authority to an administrative agency. The 1939 act represents an attempt on the part of the Oregon legislature to provide a statute which will meet the standards thus set by the court. Under the new law, the commission's jurisdiction is restricted to those municipal corporations within the county which have a population of 100,000 or more, i.e., the governments of Multnomah county, city of Portland, port of Portland, Portland school district, and Portland dock commission. Upon review of the budgets of these units, the commission is empowered to strike therefrom items not authorized by law, and to order the reduction of proposed tax levies which are in excess of constitutional or statutory limitations. Apart from this authority to compel compliance with legal requirements, the commission will henceforth function entirely as an advisory body, with no authority to reduce budgets or budget items because, in the judgment of the commission, they are unwise or excessive. On the basis of Multnomah county's experience with an advisory commission prior to 1921, it seems reasonably certain that this weakening of the tax supervising and conservation commission will greatly impair its effectiveness as an instrumentality for the promotion of economy in government.[55]

Revenue and Taxation. Provision for sharing with local units the proceeds from state-collected revenues continued to occupy a prominent place among financial trends. Several states during the year provided for dis-

[53] *Acts and Resolutions of Georgia*, 1939, p. 272; *Session Laws of Nebraska*, 1939, ch. 24; *General and Special Laws of Texas*, 1939, p. 144; *Session Laws of Wyoming*, 1939, ch. 87; note in *Public Management*, Vol. 21, p. 250 (Aug., 1939).

[54] *Oregon Laws*, 1939, ch. 273.

[55] Cf. Clyde F. Snider, *The Problem of Local Fiscal Control* (Publication No. 29, Research Department, Illinois Legislative Council, Springfield, Aug., 1940), pp. 17–24.

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tributing portions of such revenues to local governments, or, where a system of distribution had already been set up, for increasing the amount to be distributed. Tennessee provided that one-half the proceeds from liquor taxes should be apportioned among the counties to be used for old-age assistance payments. Under a Kansas statute, counties and cities receive 30 per cent of the net proceeds from a stamp tax on cigarettes. North Carolina increased from 50 to 60 per cent the portion of the tax on intangibles to be distributed to cities and counties. A portion of the proceeds from the Arkansas tax on inter-county bus and truck lines will be distributed to the counties on the basis of improved highway mileage. Legislative proposal was made of constitutional amendments which, if ratified, will make possible the apportionment to California counties of revenue derived from auto license fees and liquor taxes, and to Florida counties the proceeds from excise taxes on pari-mutuel pools. In Wisconsin, an increase was made in state grants to counties and other local units for highways. Colorado, on the other hand, diverted to the state general fund a part of the proceeds from the state income tax, all of which had formerly been distributed to the counties for school purposes.[56]

Several states enacted laws remitting interest and penalties on delinquent property taxes.[57] With respect to tax-delinquent lands to which counties have acquired title, there seemed to be a tendency away from the policy of forcing these back into private hands and toward that of permitting such lands to be held by the counties and administered in the public interest. North Dakota, which formerly required that tax-reverted lands be offered for sale annually until sold, now permits the leasing of such lands for grazing purposes for terms up to 10 years in duration. Leasing of tax-acquired lands is also authorized by South Dakota's new County Land Administration and Management Act.[58]

Indebtedness. Local borrowing in Oregon should be somewhat reduced by a statute authorizing counties and other local units to build up cash reserves for financing public improvements. The law permits serial tax levies over a period of not exceeding five years to provide funds in advance for the construction, reconstruction, improvement, or repair of public buildings and public works projects.[59] Kentucky's court of appeals sus-

[56] *Acts of Arkansas*, 1939, no. 119; *Statutes of California*, 1939, p. 3237; *Laws of Colorado*, 1939, ch. 116; *General Acts and Resolutions of Florida*, 1939, p. 1663; *Kansas Session Laws*, 1939, ch. 329; *Public Laws of North Carolina*, 1939, ch. 158; *Public Acts of Tennessee*, 1939, ch. 49; *Wisconsin Session Laws*, 1939, ch. 42. See Wade S. Smith, note in *National Municipal Review*, Vol. 28, p. 555 (July, 1939); Paul W. Wager, note in *ibid.*, p. 668 (Sept., 1939).

[57] *Kansas Session Laws*, 1939, ch. 326; *Session Laws of Nebraska*, 1939, ch. 98; *Laws of North Dakota*, 1939, ch. 236; *Session Laws of Wyoming*, 1939, ch. 98.

[58] *Laws of North Dakota*, 1939, ch. 237; *Laws of South Dakota*, 1939, ch. 25; Paul W. Wager, "County Government," *Municipal Year Book*, 1940, pp. 236–242. See *supra*, "New Functions."

[59] *Oregon Laws*, 1939, ch. 140.

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tained the constitutionality of that state's County Debt Act of 1938 providing for state supervision and control of county borrowing. The act does not, in the opinion of the court, constitute a delegation of judicial power to the county debt commission (a state agency) in authorizing the commission to pass upon the validity of county bond issues and providing that its findings of fact shall be final if supported by substantial evidence.[60] In several states, townships were included within the terms of statutes authorizing various taxing units to take advantage of the provisions of the federal Municipal Debt Readjustment Act.[61]

V. OPTIONAL CHARTERS

There seems to be a growing reaction against rigid requirements of uniformity in county government. Although not in all instances successful, attempts were made in several states to secure either constitutional amendments authorizing the legislature to provide optional forms of government or the enactment of such measures by the legislature under existing authority.

The North Dakota constitution was amended to require that the legislature shall provide optional forms of county government.[62] Wisconsin gave first legislative approval to a proposed constitutional amendment which would repeal the present requirement that county government be as nearly uniform as practicable, and would authorize the legislature to classify counties and provide optional forms of government for the counties of each class.[63] As has been pointed out,[64] a proposed amendment in Nebraska is designed to enable the legislature to make the manager plan available to counties.

The Pennsylvania legislature, on the other hand, adjourned its 1939 session without giving second legislative approval to a proposed amendment which would have authorized the enactment of legislation providing optional forms of government for counties. The proposal was given first legislative approval in 1937, but required a subsequent endorsement by the legislature before submission to the voters. Bills which, under a constitutional amendment of 1933, would have provided two optional

[60] County Debt Commission v. Morgan County, 279 Ky. 482, 130 S. W. (2d) 782 (1939). See this REVIEW, Vol. 33, pp. 1066–1067 (Dec., 1939).

[61] *Acts of Arkansas*, 1939, no. 69; *General Laws of Idaho*, 1939, ch. 110; *Public Acts of Michigan*, 1939, no. 72; *General and Special Laws of Texas*, 1939, p. 70.

[62] *Laws of North Dakota*, 1939, ch. 112; letter to the writer from G. A. Gilbertson, deputy secretary of state of North Dakota, Bismarck, Sept. 25, 1940. The amendment was ratified at the primary election of June, 1940. See *supra*, "County and Town Executives."

[63] *Wisconsin Session Laws*, 1939, p. 1044. See Frederick N. MacMillin, note in *National Municipal Review*, Vol. 29, pp. 130–131 (Feb., 1940).

[64] *Supra*, "County and Town Executives."

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forms of government for Ohio counties, were introduced in the general assembly, but failed of passage. Had the bills been enacted, counties of that state would have been authorized to retain the present form of government or to adopt a plan providing for a county council with administrative centralization under either an elective or an appointive chief executive.[65]

VI. INTERGOVERNMENTAL RELATIONS

State-Local Relations. Relationships between the states and their local units continued to manifest an increase in the number and variety of contacts between the two levels of government. Some of these contacts involved the exercise by the state of its power of supervision and control; while others took the form of voluntary coöperation, through contractual agreements or otherwise, between the state and local governments. As in the preceding year, the outstanding developments in state-local relationships took place in the field of finance.

In Maine, the emergency municipal finance board took over the management of the financial affairs of five towns and plantations, bringing to 12 the total number of such units to be placed under the board's control by the end of 1939.[66] The incentive, in the future, for local units to come under control of this state board will, however, be lessened as a result of a decision of the Maine supreme court holding invalid, as an impairment of the obligation of contracts in violation of the United States Constitution, a provision of an act of 1937 that no suit to enforce any claim should be brought against a governmental unit while its affairs were being administered by the emergency municipal finance board. In its opinion, the court emphasized the fact that by the terms of the Maine statutes state control over local finance is not limited to times of public emergency, but, once inaugurated in a local unit, continues until the local government is prepared, in the opinion of the emergency finance board, to resume control.[67]

In New Jersey, the finances of 24 townships were supervised during 1939 by that state's local government board under the terms of the act of 1938 providing for special supervision over municipalities approaching an unsound fiscal condition. The law of 1938 was amended in 1939 to include counties within its provisions, but at the end of the latter year no county had yet been placed under the local government board's super-

[65] Paul W. Wager, notes in *National Municipal Review*, Vol. 28, pp. 390–391, 552 (May, July, 1939).

[66] Note in *Public Management*, Vol. 22, p. 26 (Jan., 1940).

[67] *Public Laws of Maine*, 1937, ch. 233; Waterville Realty Corporation v. City of Eastport, 8 Atl. (2d) 898 (Supreme Judicial Court of Maine, 1939); Carl H. Chatters and Elton D. Woolpert, "Trends in Municipal Debt," *Municipal Year Book*, 1940, pp. 178–193.

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vision.[68] New Hampshire, by special act, provided for control of the financial affairs of Coos county for a two-year period by a fiscal agent appointed by the governor and council. This law, sponsored by the legislators from the county concerned, resulted from a lack of response on the part of local authorities to protests against rapidly mounting relief expenditures.[69] A general law of the same state established a state division of municipal accounting and provided for a uniform system of accounting and reporting by local governmental units according to forms prescribed by the division. The division is also authorized to audit local accounts.[70]

Alabama created a division of local finance in a newly-established state department of finance and conferred upon the division various duties relative to local indebtedness, budgeting, accounting, and auditing. Counties, together with sundry other local units, are required to file annual debt statements with the division. If a local unit proposes to issue bonds, notice of such intention must be given to the division, which may investigate the unit's financial condition and advise as to the wisdom of the proposed issue. The advice so given, however, is not binding upon the local government and has no effect upon the validity of the bonds concerned. In case a local government unit has been in default on any indebtedness for 90 days or more, the division may, at the request of the holder of any bond in default, assume control of the revenues applicable to the payment of such debt. State control over such revenues and the expenditure thereof continues until the indebtedness is paid or until a plan of payment is agreed upon by the unit concerned and the holders of three-fourths (in amount) of the bonds in default. Copies of the annual budgets of local units must be filed with the division, although the state agency is given no authority to review or control budget provisions. The division is also charged with the duties of preparing a uniform system of county accounts and auditing the financial transactions of all county officers.[71]

Nebraska's county budget law of 1937 was amended to provide for the drafting of budget forms by the state auditor of public accounts and the attorney-general. Another Nebraska law authorized the state auditor to prepare standard forms for inventories of county property. California provided that the state legislative council might contract with counties

[68] *Acts of New Jersey*, 1939, ch. 364; letter to the writer from Walter R. Darby, New Jersey Commissioner of Local Government, Trenton, Sept. 26, 1940. See this REVIEW, Vol. 33, p. 1066.

[69] *Laws of New Hampshire*, 1939, ch. 91; Stephen B. Story, note in *National Municipal Review*, Vol. 28, pp. 389–390 (May, 1939). See also *Laws of New Hampshire*, 1939, chs. 175, 226.

[70] Note in *Public Management*, Vol. 21, p. 250 (Aug., 1939). See *supra*, "Budgeting and Accounting."

[71] Weldon Cooper, note in *National Municipal Review*, Vol. 28, pp. 476–477 (June, 1939).

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or cities for the codification, compilation, or indexing of local ordinances; while Texas authorized counties and other political subdivisions to enter into agreements with the state for the establishment of free public employment service. The Idaho legislature declared all highways to constitute a state-wide highway system, but provided that local governmental units, acting as agents of the state, should continue to construct and maintain roads within their respective limits. Another Idaho statute established a state noxious weed commission to coöperate with local units in weed eradication. Oregon provided that the appointment of county horticulture inspectors and meat and herd inspectors should be subject to the approval of the state director of agriculture.[72]

Federal-Local Relations. In the field of federal-local relations there were no novel developments. However, there was some legislation designed to facilitate the acceptance of federal grants by counties and other local units; while more and more local governments availed themselves of the privileges in that regard conferred by existing legislation.

A Nevada statute provided blanket authorization to counties to make the contributions and extend the coöperation necessary to qualify for federal grants for public works and other purposes. If the county's contribution is less than $1,000, the appropriate agreement with the federal agency concerned is effected by a simple resolution of the board of county commissioners. In case of a larger county contribution, however, the commissioners must publish a declaration of their intent to accept the federal offer, and the voters of the county may by petition require a popular referendum.[73] Oklahoma counties were authorized to accept federal funds in aid of library programs.[74] By the end of 1939, the United States Housing Authority had entered into loan contracts with four county authorities and had made earmarkings of funds for three others.[75]

The federal-local problem which seems to have been the subject of most legislative attention during the year is that of the replacement of local tax revenues lost through federal acquisition of land for flood control, soil conservation, power generation, rural rehabilitation, and other purposes. The Florida legislature memorialized Congress urging that payments in lieu of taxes be made in such cases; while several other states authorized counties to negotiate directly with the federal government in

[72] *Statutes of California*, 1939, ch. 735; *General Laws of Idaho*, 1939, chs. 16, 235; *Session Laws of Nebraska*, 1939, chs. 24, 28; *Oregon Laws*, 1939, ch. 23; *General and Special Laws of Texas*, 1939, p. 461.

[73] *Statutes of Nevada*, 1939, ch. 148; Kenneth Wernimont, "State Rural Land Use Legislation in 1939," *loc. cit.*

[74] *Harlow's Session Laws of Oklahoma*, 1939, p. 84.

[75] *Annual Report of the United States Housing Authority*, 1939, pp. 32–35. Loan contracts had also been made with the city-county authorities of San Francisco and Denver.

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an effort to secure such payments.[76] The problem of revenue replacement is especially acute in the T.V.A. area, in some counties of which public utilities, prior to their acquisition by the T.V.A. or coöperating municipalities, supplied two-thirds of the local tax base. Such counties are reported to be requesting the enactment of federal legislation enabling states and local units to tax the property of federal "proprietary" enterprises.[77]

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[76] *Acts of Arkansas*, 1939, no. 361; *General Acts and Resolutions of Florida*, 1939, p. 1670; *Laws, Resolutions, and Memorials of Montana*, 1939, ch. 59; *Laws of New York*, 1939, ch. 823; *Harlow's Session Laws of Oklahoma*, 1939, p. 405; *Acts and Joint Resolutions of South Carolina*, 1939, p. 529; Kenneth Wernimont, "State Rural Land Use Legislation in 1939," *loc. cit.*

[77] Elwyn Mauck, note in *National Municipal Review*, Vol. 29, pp. 62–63 (Jan., 1940).

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The Use of Atrocity Stories in War. Modern warfare is waged on at least four fronts through the coördinated efforts of military, economic, diplomatic, and progaganda weapons. Not the least of these is propaganda. Conscious as never before of the catastrophic effect of war upon humankind, the people of a nation must be convinced, before they can be called upon to make the supreme sacrifice, that they are fighting in the name of Truth and Right. It is desirable, therefore, to portray the enemy as a wicked, murderous aggressor, a fit subject for the collective hatred of the state. Once a people become convinced of the blamelessness of their own government and aroused by a spirit of righteous indignation against the enemy, the problem of motivation becomes much easier.

One of the most time-honored propaganda devices to mobilize public animosity against the enemy and to justify military action is the atrocity story. This technique, says Professor Lasswell, has been used "with unvarying success in every conflict known to man."[1] Certainly from the time of the Irish Rebellion[2] down to the present, the circulation of stories about the atrocious and fiendish acts of the enemy have been utilized to maintain martial morale within the state and to bid for neutral support. During the World War, the tall yarns circulated by the Allied propaganda machine about the wicked Germans who cut off the hands of Belgian children, crucified Canadian soldiers, and operated a corpse factory where they distilled glycerine from the bodies of the dead, increased the blood pressure of honest Americans by leaps and bounds.[3]

Germany's Atrocity Story Campaign. In displaying before the bar of public opinion numerous documents relating to Polish acts of atrocity against the German minority in Poland, the German government in the present war is pursuing a relatively normal course.[4] Given the conditions in western Poland during the first few days of the war, it was only natural that a certain number of outrageous acts should be perpetrated against the Germans residing there. It was only natural, too, that these excesses should be seized upon as an opportunity to justify Hitler's action by trying to convince the German people and the world at large of the

[1] H. D. Lasswell, *Propaganda Technique in the World War* (New York, 1927), p. 81.

[2] See the excellent case study by James M. Read, "Atrocity Propaganda and the Irish Rebellion," *Public Opinion Quarterly* (April, 1938), p. 229.

[3] See A. Ponsonby, *Falsehood in War-Time* (New York, 1928), pp. 78, 91, 102; H. C. Peterson, *Propaganda for War* (Norman, Okla., 1939), pp. 38, 54 ff., 141, 243.

[4] See *Polish Acts of Atrocity against the German Minority in Poland* (2nd ed.) and the supplementary *Pictorial Report on Polish Atrocities* published by the German Library of Information (New York, 1940). These documents are compiled from four official statements of the German government on Polish atrocities.

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fiendish nature of the Polish government, egged on as it was by British imperialists.[5]

The atrocity documents published by the German government in the United States follow the usual pattern. The reader is confronted with an imposing array of official documents, sworn testimony, and expert medical opinion. "Rumor, hearsay, unverified statements are rigidly excluded."[6] Foreign (especially Allied) authorities are cited to assure the world in an impartial way that the Poles are a barbarous people. Numerous pictures are included; "the camera never lies."[7] Then comes a series of depositions, startling examples of the terrible treatment accorded the German minority group. There are ghastly tales of mass murder. There are bloody reports of eyes gouged out, tongues torn out, teeth knocked out, abdomens ripped open, skulls crushed, brains spattered, arms and legs broken, feet, fingers, and legs hacked off, victims emasculated, noses and ears cut off. There are the usual frightful stories of women and girls being violated. The reader is told of pregnant women who were mercilessly bayonetted. Numerous other samples portray the Pole in all his barbarous cruelty; somewhat typical, perhaps, is the account of the Polish laundress who " 'foamed at the mouth' with blood lust."[8]

Evidence is not available to permit a study of the veracity of these depositions, or even to measure their possible effect on world opinion. In 1935–36, however, the Italian government, under much the same circumstances, issued a series of documents calling attention to Abyssinian atrocities. A survey of these documents would seem desirable at this time, since they throw additional light on the atrocity story technique and its effectiveness when utilized by aggressor nations.

Italy's Use of Atrocity Stories in the Abyssinian Campaign. Since one of the chief functions of the League of Nations had been to act as a public forum from which world opinion could be crystallized, it is not strange that Italy took advantage of her position at Geneva to exploit the atrocity story technique in connection with her invasion of Abyssinia. It will be recalled that by September, 1935, all efforts at conciliation or arbitration had failed and the Abyssinian problem child was found once more on the League doorstep. In accordance with League procedure, the two governments were summoned to appear before the Council: Abyssinia obviously

[5] It will be recalled that in August and September, 1939, one of the causes of military action most frequently cited by Hitler was the "Macedonian conditions" on Germany's eastern frontier, the "atrocious and barbarous ill-treatment" suffered by the German minority at the hands of the Poles.

[6] *Polish Acts of Atrocity*, p. 10.

[7] Some pictures, "too shocking for general circulation," are available "to librarians, medical men, government officials, historians, and other serious students" in the supplementary document, *Pictorial Report on Polish Atrocities*, *ibid.*, p. 22.

[8] *Polish Acts of Atrocity*, p. 84.

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the underdog and Italy quite as obviously the guilty party. Then it was that Mussolini played his trump card. Well aware that world opinion was tipping the scales of international justice in favor of Abyssinia, Italy went to Geneva, not as the defendant in the case, but as the plaintiff. Holding high the banner of the white man's burden, the Italian government submitted a flood of documentary evidence denouncing her adversary as a barbarous and uncivilized country unfit for membership in the League—a veritable black sheep in the family of nations.

The first bombshell of the Italian barrage came in the form of a "Memorandum by the Italian Government on the Situation in Ethiopia,"[9] under date of September 4, 1935. This heavily documented indictment[10] charged that Abyssinia had consistently violated her treaty engagements with Italy. Her failure to prevent the raids and aggressions of native tribes in outlying territories had constituted an ever-present menace to the security of Italian colonial possessions.

Furthermore, Abyssinia had failed to live up to her obligations under the League Covenant. The slave trade continued, even with the connivance of public officials, who winked at the law and received a handsome bonus for each transaction. Domestic slavery, too, continued an Ethiopian custom, so that there was "not a chief's or notable's house in Abyssinia, from the Imperial Gebbi downwards, which is not at all times supplied with slaves of both sexes."[11]

This possession of human life naturally carried with it all the horrors of domestic slavery. "Children grow up like beasts." Slaves were often under-nourished and many received exceedingly inhuman punishment from their masters—such as being scalded to death, burned with red hot irons, or hanged by the feet, head down, and slowly suffocated by the acrid vapors emitted from burning peppercorns.[12]

Numerous other atrocious practices were charged in the Italian Memorandum. Emasculation was still practiced by victorious Ethiopian tribes, who used the genital organs of the captured foes as trophies of victory.[13] Tales of trade in eunuchs, cannibalism, bleeding of infants, and extreme torture were advanced to prove the barbarous tendencies of the Ethiopian.

The Memorandum further held up to ridicule the backward state of Ethiopian law, with its atrocious forms of punishment. Cited, for example, was the case of the would-be assassin whose limbs were tightly bound in strips of muslin impregnated with honey-wax and then slowly burned like a living torch. Almost as horrible was the sentence given to a native woman found guilty of murdering her husband. She was "taken to the

[9] League Document C. 340. M. 171. 1935. VII.
[10] See Doc. C. 340. (a). M. 171. (a). 1935. VII.
[11] Document cited, p. 48. [12] *Ibid.*, p. 50.
[13] Gruesome photographs were submitted to substantiate the Italian charges.

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high road, buried up to her neck, and left there till she died." She survived for three days, "when a large stone was dropped on her head, squashing it as flat as a pancake."[14]

"Such are the barbarous customs and archaic laws in force today in Ethiopia," concludes the report. "By her conduct, Ethiopia has openly placed herself outside the Covenant of the League and has rendered herself unworthy of the trust placed in her when she was admitted to membership. Italy, rising up against such an intolerable situation, is defending her security, her rights, and her dignity. She is also defending the prestige and good name of the League of Nations."

Following the opening of hostilities in October, a steady stream of complaints against Ethiopian atrocities flowed from the Italian Foreign Office to the League, being published in the Official League Documents. The extensive circulation of League documents, it was assumed, would assure world-wide publicity for the Fascist cause. While allegations were made in regard to the use of dum-dum bullets,[15] misuse of the Red Cross emblem, and bombardment of Red Cross hospitals,[16] the most damaging testimonials (and the ones with which this paper is chiefly concerned) related to the treatment of Italian prisoners and workmen by the Ethiopians.

The Convention Concerning the Treatment of Prisoners of War (1929)[17] provides that such prisoners "shall at all times be humanely treated and protected, particularly against acts of violence, from insults and from public curiosity." According to Italy, therefore, the atrocious practices of Abyssinia in respect to Italian prisoners flagrantly violated the moral code of the civilized world as well as specific rules of international law.

Most common was the allegation that Ethiopian soldiers had emasculated Italian prisoners, decapitated them, slit their throats, and mutilated their bodies with sharp cutting instruments. In a letter to the Secretary-General dated January 16, 1936, the Italian government reported some 36 such cases.[18] At Dekri, on December 3, an Italian soldier had been killed and "subsequently the Abyssinians disembowelled him and split his skull." Following the battle of Abbi Addi (December 18), they had mutilated the body of Lt. Martino "castrating him and cutting off his hands." Likewise of the 44 Italians killed at Makale (December 28), "25 were afterwards found castrated and mutilated by the Abyssinians." Still more serious was the case of pilot Minniti, who was reported horribly tortured,

[14] *Ibid.*, p. 61.

[15] For example, see Document C. 242. M. 140. 1936. VII.

[16] See, among others, Documents C. 481. M. 257. 1935; C. 104. M. 45. 1936; C. 146. M. 85. 1936.

[17] Text in M. O. Hudson, *International Legislation*, V, pp. 20 ff.

[18] See C. 35. M. 13. 1936. VII.

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"killed and decapitated and his head . . . carried in triumph to the Abyssinian headquarters." These barbarous acts, argued Italy, "violate every principle of humanity and law and, in particular, the rules established in the Geneva conventions."[19]

Scores of similar incidents were cited by the Italian government, some of the most damaging being sworn to by "impartial" observers. Among other depositions are those of M. Lipmann, a *French* officer on leave, who stated that "*he was told* at Diredawa, in the presence of witnesses," of the Minniti case;[20] Joseph Jonka, an *Austrian* previously an instructor in the Ethiopian army; the secretary of the *Greek* consulate at Diredawa, who certified that Italian prisoners were massacred "in a most barbarous manner"; eight statements made by persons said to be returned members of the *Egyptian* Mission in Abyssinia; Armand Frère, formerly *Belgian* military adviser to Ras Desta;[21] and various others, mainly of lesser importance.[22]

The climax to Italian accusations came with the transmission to the League of certain statements sworn to by members of the Egyptian Medical Mission in Abyssinia. According to these depositions, Italian soldiers who were unfortunate enough to fall into the hands of their savage enemies were maltreated in every conceivable fashion: beaten, chained, bound with iron shackles, their throats cut, and "vilified and insulted in the most atrocious manner."[23] Thus one Labib Hassan Ibrahim reported (this was corroborated by three other members of the mission) that on the morning of December 10, 1935, at Daggah Bur [Dagabur], he saw a parade of 2,000 Ethiopian soldiers with two headless corpses being borne in front of the procession. "At a short distance came other soldiers carrying the heads of the two corpses [Italians captured the previous day] stuck on spears."

But even Ibrahim's statement is somewhat mild when compared to the deposition of one Abdel Mohsen El Wishy, confirmed by two other members of the mission, who—according to the Italian report—"*have heard corroboratory statements from reliable persons in Ethiopia.*"[24] Mohsen related that on December 24, 1935, at Bolali, he saw a group of Abyssinian soldiers drag an Italian airman (apparently the case of one Minniti which the Italians had previously denounced by telegram) to a tree, place shackles on his legs, and bind him there. They then proceeded to emascu-

[19] *Official Journal*, Feb., 1936, p. 243.

[20] C. 35. M. 13. 1936. VII. Italics are mine.

[21] Lt. Frère swore that he was present at a feast held by Ethiopians in honor of Ras Desta, which took place "in front of three decapitated heads of Italian soldiers who had also been emasculated." See *Official Journal*, July, 1936, p. 780.

[22] For a summary, see *Official Journal*, Feb., 1936, p. 367.

[23] C. 104. M. 45. 1936. VII, p. 10. [24] *Ibid.*, p. 11. Italics are mine.

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late him and cut off his fingers. Shortly afterwards the sergeant in charge began to flay the skin from the chest of his unfortunate victim in order to make a cigarette case "which he would use only on great occasions. The horrible operation completed, the body was cut into pieces. The head and feet were stuck on bayonets, while an attempt was made to burn the other wretched remains with petrol taken from a camp of Somali camel-drivers near by."[25]

The Reliability of Such Evidence. While it is not the purpose of this paper to prove or disprove the accuracy of the Italian charges, evidence advanced by the Ethiopian government indicates that certain of the most damaging depositions were of doubtful validity. In her verbal counter-attack, Ethiopia charged that the Italian memoranda were a "mass of inaccuracies"; that incompetent and unreliable witnesses had been cited; that photographic evidence had been "manufactured"; that sworn statements were too often of the "hearsay" variety; and that many general and specific accusations could not be proved. A few samples will illustrate the point.[26]

It was amply demonstrated during the World War that modern photography might well "create" good atrocity pictures, one of the most effective types of war propaganda that can be used. In at least one instance, however, in the Italo-Abyssinian controversy, a specific complaint was registered against this technique by one Joseph Van Mollé, a Belgian, who charged that Italy had been "a too zealous collaborator in using a photograph" taken by him in Abyssinia in 1927–28.[27] The photograph in question showed the chaining of a murderer at Gambo just after he had been declared guility by an Abyssinian tribunal. The interpretation given by the *dossier* of the Italian government represented the scene as follows:[28] "A thief condemned to have his hands cut off is about to suffer the penalty." As the photographer himself said, the interpretation placed on the photograph was "completely inaccurate," for it "does not deal with a thief whose hand is being cut off, but with a murderer who is being put in chains."

Furthermore, the Ethiopian government, in its report of May 2, 1936,[29] presented a veritable flood of depositions (largely from members of the Egyptian Medical Mission) which cast considerable doubt upon the veracity of the statements of the Egyptian Medical Mission members referred to above. Thus on February 13, 1936, a sworn statement from six medical attendants (including Abdel Mohsen El Wishy) pointed out that there

[25] *Ibid.*, p. 12.
[26] See Doc. C. 357. M. 182. 1935. VII. Especially pp. 1594–98.
[27] See Doc. C. 353. M. 180. 1935. VII.
[28] Cf. the *Paris Soir*, Sept. 7, 1935.
[29] Doc. C. 201. M. 126. 1936. VII.

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"is no truth at all in the allegations . . . attributed to some of our former colleagues."[30]

One ex-medical attendant swore, on April 14, 1936, that the "report [of Abdel Mohsen and his colleagues] is a mere lie and devoid of a single atom of truth." Several others declared that Abdel Mohsen "was a mere humbug" and that he "had intentionally fabricated this lie in order to exploit it together with his two colleagues . . . to their personal material benefit." Four medical attendants likewise swore that all the accusations were "mere fabrications and entirely devoid of truth." Still others declared that Abdel Mohsen and his friends were never, during their stay in Abyssinia, near the scene of the atrocities sworn to and could not possibly have witnessed any such events.[31]

It is generally recognized that human testimony, even that of eye witnesses, is at best unreliable. And, as Ponsonby observes, "where bias, sentiment, passion, and so-called patriotism disturb the emotions, a personal affirmation becomes of no value whatsoever."[32] As has been suggested, the Italian government logically attempted to avoid criticism on this score by securing its depositions from people of foreign extraction. According to evidence advanced by Abyssinia, however, there seem to be other forces, even more potent than patriotism, which lead to exaggeration or even complete fabrication. One Mahmoud Aly Ibrahim swore that he had been offered certain financial considerations and other "attractive promises" by an Italian agent to sign certain documents "embodying alleged barbarous actions on the part of the Abyssinians." Still another, Mohamed Riad, one of those to whom damaging statements against Abyssinia were attributed, declared that his signature had been secured under false pretenses.[33]

Not only did Italian agents secure signatures by means of fraud, trickery, and financial remuneration, but force and compulsion were resorted to, if the Abyssinian charges are correct. One Dr. Belau, a Polish doctor, testified that he had been taken prisoner by the Italian forces in Abyssinia and, following considerable torture and rough treatment, had been forced to sign a false statement under threat of death. He signed, he said, "under constraint and in order to save his life."[34] While Italy in this case denied the disavowal made by Dr. Belau, and even presented a counter-deposition, the more controversy rages about such points, the more one is inclined to doubt the authenticity and good faith of much of the evidence presented.[35]

[30] Document cited, p. 8.

[31] See *ibid.*, pp. 12, 16, 18, 20.

[32] Ponsonby, *op. cit.*, p. 128.

[33] Doc. C. 201. M. 126. 1936. VII. pp. 10, 14.

[34] *Official Journal*, April, 1936, p. 478.

[35] The last deposition "impartially" made by Dr. Belau seems to be strongly pro-Ethiopian. *Ibid.*, p. 477.

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Finally, the Italian case does not seem too convincing when one considers the reputation that many of the men who made the depositions apparently had among their associates. Unreliable people can hardly be counted upon to give reliable testimony. Thus President Ismail Daoud, of the Egyptian Medical Mission, remarked on March 13, 1936, that "had Labib Hassan Ibrahim showed as much energy and enthusiasm in carrying out his duty as a cook as he showed in describing imaginary barbarous scenes, he would have still been working as a cook and receiving his monthly wages of £E6."[36]

Effect of Italian Propaganda Efforts. With some minor exceptions, the Abyssinian government did not choose to counter Italy's charges with additional tales of individual atrocities. Rather, it adopted two other methods of approach. In the first place, as suggested above, it attempted to prove that many of the Italian accusations were either obviously untrue or completely misleading. In the second place, as the war progressed, it presented evidence to show that the Italian army was waging a war of extermination, and that Italy's policy of using poisonous gases and of bombarding unprotected towns was far more barbarous than any act of atrocity that individual Ethiopian soldiers might have committed.

In a telegram dated December 6, 1935, Emperor Haile Selassie complained that open towns (such as Dabat and Dessieh) were being bombarded by enemy planes.[37] By March 29, 1936, some 54 cases had been reported.[38] Italy was accused also of attacking towns with poisonous gases—chiefly mustard gas—[39] of bombing Red Cross hospitals and ambulances,[40] of bombing and burning a number of churches. On April 1, 1936, the Ethiopian government wrote the Secretary-General that Italian forces were "systematically killing women, old men, and children, destroying towns, villages, churches, and convents, and bombing hospitals and ambulances. The awful destruction of Harrar is but a single incident in this terrible war. These practices recall the carnage of ages which it was thought had gone never to return."[41] Dozens of complaints were climaxed in June by the personal appearance of Haile Selassie in Geneva to denounce from the rostrum of the Assembly "the tortures inflicted upon Ethiopian people" by the invading hosts.[42]

The reception accorded the Italian propaganda campaign in League circles is too well known to require elaboration at this point. While world statesmen accepted the atrocity stories and gruesome photographs as a further indication that the internal situation of Ethiopia called for exten-

[36] Doc. C. 201. M. 126. 1936. VII. p. 4.
[37] *Official Journal*, Jan., 1936, p. 29.
[38] *O. J.*, April, 1936, p. 370. [39] See Doc. C. 161. M. 99. 1936.
[40] See *O. J.*, April, 1936, p. 369, for some 19 cases. [41] *Ibid.*, p. 399.
[42] *Records of the 16th Ordinary Session of the Assembly*, Pl. Meetings, p. 23.

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sive reforms, they seemed to agree that "a backward population can be assisted by other means than by guns and tanks."[43] Atrocities in Abyssinia? To be sure. But any atrocities perpetrated by the Ethopians were mild when compared with the use of poisonous gases and the bombing of open towns. As Mr. Bruce of Australia, president of the Council, pointed out on April 20, 1936, "all the charges that have been put forward . . . are hideous; but there is one thing . . . that stands out in its menace to humanity and civilization far above everything else, and that is the charge which has been made that poisonous and asphyxiating gases are being employed in this war."[44]

Throughout the deliberations of the Council and Assembly concerning the Italo-Abyssinian dispute, the Italian delegation expressed no little bitterness that their memorandum of September 4, and subsequent atrocity data, had not been of greater weight in determining the League position. In the closing meetings of the Assembly, Baron Aloisi once more denounced the barbarous nature of the Ethiopian and complained that "neither the Council nor any of the committees appointed by it during the last month have taken the Italian memorandum into account. They have not even considered it."[45]

Further bitterness was incurred by the Committee of Jurists appointed by the League to make a study of the alleged violations of "international law and morality" on the part of Abyssinia and Italy. Following the Committee's thorough comparison of the charges levied by both sides during the conflict, the Council, on April 20, 1936, prepared to adopt a resolution reminding the two parties that both were signatories of the Protocol of June 17, 1925, prohibiting the use of asphyxiating, poisonous, or other gases in war.[46] The resolution made no reference to Abyssinian atrocities. This "oversight" again stirred Aloisi to action. Why "confine yourself to asphyxiating gases"?, he demanded. "We have been protesting to the League of Nations for months against acts which are far more serious from the humanitarian point of view."[47] As a result of his insistence, the resolution, as finally adopted, not only called attention to the Protocol of 1925, but also reminded Italy and Abyssinia that they were parties to other conventions "regarding the conduct of war."[48] By adding this clause intended to cover the treatment of prisoners of war and of the dead on the battlefield, the Council officially took cognizance of the atroci-

[43] *Records of the 16th Assembly*, cited above, pp. 63, 84.
[44] *Official Journal*, April, 1936, p. 386.
[45] *Records of the 16th Assembly*, p. 103.
[46] Text in Hudson, *International Legislation*, III, p. 1670.
[47] *Official Journal*, April, 1936, p. 389.
[48] *Ibid.*, p. 392. For the text of the Hague Convention (1907) on the Laws and Customs of War on Land, see 36 *U. S. Statutes at Large*, p. 2277. The 1929 conventions may be found in Hudson, *op. cit.*, V, pp. 1, 20.

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ties perpetrated against Italian soldiers by the Ethiopians. At any rate, the ruffled dignity of the Italian government had been smoothed somewhat.

As one might expect, Italy's propaganda technique met with even less success in the world press. A survey of some 35 leading periodicals in the United States discloses that the Abyssinian atrocities reported by Italy created not the slightest ripple in a country where German atrocities had been so gullibly devoured some two decades earlier. And while such journals as *Le Temps* and the *London Times* reported in an impartial manner what Rome referred to as the "*écrasente documentation italienne*,"[49] the few minor atrocities designated from time to time (on both sides, incidentally) paled into insignificance when compared to the screaming headlines which called attention to Italy's methods of waging war.

The controlled German press likewise maintained an even keel. On several occasions, when the foreign press carried reports of atrocity stories perpetrated by one side or the other, German editors warned that such news could not be verified and should be read with great reservation.[50] Somewhat typical is the attitude of *Der Angriff* in protesting against anti-fascist propaganda. Early in the war, *Der Angriff* called the attention of its readers to *Kriegsgreuelpropaganda* (war atrocity propaganda) and reminded the world of the *Greuellügen* (atrocity lies) so unfairly used against Germany during the World War. And, concluded *Der Angriff* in a leading editorial significantly entitled *Abgeschnittene Hände*, since history had established the innocence of Germany in regard to World War atrocities, German papers should set themselves up as models of fairness in reporting the news.[51]

Meanwhile in Italy Ethiopian atrocity stories played an important rôle in the propaganda campaign designed to (1) justify on legal and humanitarian grounds Italy's intervention in Ethiopia, (2) stimulate a more martial spirit among the Italian people, who had not entered the war with the desired amount of enthusiasm, and (3) afford an official and a legal justification (by invoking the doctrine of retaliation) for the bombing of open towns and the use of poisonous gases.

On September 5, 1935, Italian papers published long résumés of the memorandum submitted to the League of Nations, *Il Giornale d'Italia* devoting its first three pages to that topic. This was followed by a concentrated effort to emphasize the frightful living conditions in Ethiopia

[49] *Le Temps*, Sept. 4, 1935.

[50] See, for example, the article entitled "Kriegsgreuel als Lügenmittel" in the *Lokal Anzeiger*, Oct. 4, 1935.

[51] *Der Angriff*, Oct. 3, 4, 5, 1935. *Lokal Anzeiger*, Oct. 4, 10, 1935. See also the files of the *Frankfurter Zeitung* and the *Völkischer Beobachter* for the period of the war.

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and the necessity for Italian intervention.[52] The Italian government's communication to the 16th Assembly proclaimed: "Italy views the work she has undertaken in Ethiopia as a sacred mission of civilization."[53]

Apparently hopeful of achieving their goal in Abyssinia without conquering the entire country, the Italian armed forces did not resort to illegal methods of warfare on a wide scale before December and January. But when the Hoare-Laval plan fell to the ground, the die was cast. Throwing aside any semblance of restraint, *Il Duce's* war machine ruthlessly entered a new phase of the conflict designed to crush the opposition by fair means or foul.

Bombings and poisonous gases were readily justified. In the press of January 1, 1936, appeared the following statement of the Ministry of Propaganda in Rome: "The bombardment which has taken place on the Somali front is fully justified by the proved fact that two Italian aviators fallen at Dagabur have been killed, decapitated, and their heads carried in triumph to Harrar."[54] The entire Italian press took up the cry. One editor called for a harder and more relentless type of war that would better respond to the inhumanity the warlike Abyssinians and their cruel chiefs had always shown.[55] Another suggested that Italy had attempted to wage an honorable war based on the rules of international law. But "with these fearful atrocities," he said, "the enemy obliges us to make use of every possible method in order to combat them."[56] Others, in calling attention to the Minniti case and other Abyssinian atrocities, insisted that the war be waged without mercy. For, as *Il Tevere* put it, a tent full of Swedes or British or League officials, or even all the criminal community of the fifty-odd sanctionist nations—"all that is not worth a single hair from the head of a decapitated Italian soldier."[57]

The Ethiopian government apparently understood the tactics of its adversary. In a communication to the League of Nations dated January 3, 1936, it was charged that the Italian government, no longer able to deny certain crimes which had attracted world-wide attention, "is now attempting to justify them as reprisals against alleged acts of cruelty stated to have been committed by the Ethiopian authorities." Moreover, stated the communiqué, Italy was merely preparing world public opinion for the more intensive use it was about to make of illegal methods of warfare.[58] Subsequent events seemed to substantiate Ethiopian assertions.

Italy based her case almost entirely on the necessity for reprisals. Her army, ran the Italian argument, had consistently obeyed the laws of war.

[52] See, for example, *Giornale d'Italia*, Sept. 24, 1935, and *Messaggero*, Sept. 21, 1935. [53] *Official Journal, Special Supplement*, No. 151, p. 21.
[54] Text in *Le Temps*, Jan. 1, 1936. [55] *Giornale d'Italia*, Jan. 3, 1936.
[56] *Popolo di Roma*, Jan. 3, 1936. [57] *Il Tevere*, Jan. 4, 1936.
[58] C. 12. M. 11. 1936. VII. See also C. 220. M. 112. 1935. VII. p. 721.

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The Ethiopian forces, with their "abominable atrocities"—decapitation, torture, emasculation, savagery, killing of non-combatants, etc.—had ignored the conventions concerning the conduct of warfare and were thus "in the legal position of being unable to appeal to them."[59] The Italian authorities could not do otherwise than "punish every inhuman atrocity committed by its adversary in contempt of every principle of law and morality."[60]

The Italo-Abyssinian affair dragged on to its unhappy end. Atrocity stories furnished good fuel for the controlled Italian press and provided within Italy both moral and legal grounds for the war of extermination against her "barbarous" adversaries. But in other countries new concepts of international law and morality, buttressed by important political factors, acted as adequate disinfectants against the Italian "germs of hate." Had not the members of the League of Nations guaranteed to protect the political independence and territorial integrity of all states within the League? Had not the signatories of the Kellogg Pact denounced war as an instrument of national policy? And by this same token, had not aggression been branded as a criminal act against international society—the crime above all other crimes?

Suppose, even, that some of the stories were true. Suppose that atrocities had been committed. Was not the initial act of aggression—launched without a sincere effort to settle the dispute in a peaceful manner, and carried on with an almost complete disregard for the law of war—far more illegal, far more inhuman, far more barbarous, than scattered acts of individual atrocity? The propaganda campaign of aggressor nations, frowned upon at the outset by world public opinion, must necessarily function within a narrowly limited framework. This case study of the use of Ethiopian atrocity stories by the Italian government is perhaps indicative of the limitations of that framework.

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The War Policy of South Africa. Neutrality versus support of the British Commonwealth was the issue which confronted the Union of South Africa when Great Britain, on September 3, 1939, went to war with Germany. A glance at recent South African political history will assist the reader in understanding the significance of the political crisis which marked the Union's entry into the conflict. As the outcome of an earlier crisis at the end of 1932, when South Africa abandoned the gold standard, a Coalition Government headed by two Boer generals was formed. General Hertzog, leader of the Afrikaans-speaking Nationalist party, who

[59] *Official Journal*, June, 1936, p. 580.
[60] *Ibid.*, April, 1936, p. 363.

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had been prime minister in the preceding Nationalist-Laborite Pact Government, continued in the premiership. The post of deputy prime minister in the Coalition Cabinet was taken by General Smuts, the head of the South African party (made up of both Afrikaans and English-speaking elements of the population), which had formed the Opposition to the Pact Government. When this Coalition of 1933 was welded into Fusion by the formation of the United party in 1934, the rôle of the official Opposition was assumed by the extreme Nationalists under Dr. Malan. Minor parties in Parliament were the Laborites and the Dominion party, an offshoot of the South African party with strong pro-British sentiments.

In organizing the coalition of 1933, Prime Minister Hertzog and General Smuts reached a compromise on the subject of neutrality. It was then agreed that the Union was not automatically bound to enter into a war, involving the Commonwealth, but would participate only if Parliament should so decide when the occasion arose. This formula was designed to satisfy both the Nationalist enthusiasts for neutrality and some of the more imperially-minded followers of General Smuts, who could not accept the idea of divisibility of the Crown implied in Dominion neutrality. Since the South African government, under the Smuts-Churchill Agreement of 1922, had assumed responsibility for the land defenses of the British naval base at Simonstown, there was a question as to the compatibility of the Coalition's attitude on neutrality with this Agreement. Asserting that Union neutrality was possible despite the Agreement, General Hertzog, in 1935, compared Simonstown with Gibraltar. Later he took the rather questionable position that South African neutrality would not be contravened by granting military assistance to a belligerent in accord with a previous agreement.

As European political tension increased in the summer of 1938, the issue of neutrality came to the fore in South Africa. Prime Minister Hertzog steadfastly refused to make any public commitments regarding the Union's attitude in a hypothetical European struggle, but from recent disclosures by Generals Hertzog and Smuts, it now appears that the inner cabinet favored neutrality during the Czech crisis which culminated in the Munich Agreement.[1]

[1] See statements in the House of Assembly by General Hertzog on Feb. 12, 1940, and by General Smuts on Apr. 1, 1940. As Professor Clokie has pointed out ("The British Dominions and Neutrality," in this REVIEW, Aug., 1940, p. 741), General Smuts, on Aug. 25, 1938, made an oft-reiterated statement to the House that the Union would not be automatically at war in case Britain were attacked, but he could not imagine South Africa's withdrawal from the friendly bonds uniting the two countries. It is evident, however, from his recent replies to General Hertzog's charges of inconsistency in connection with his stand for belligerency in 1939, that General Smuts in 1938 believed there was a reason for neutrality. Like statesmen in Great Britain and France, he was inclined to give Hitler the benefit of the

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A year later, however, when Germany attacked Poland, the South African cabinet split wide open on the issue of neutrality. European political developments after Munich had failed to deflect Prime Minister Hertzog and several of his colleagues from their neutral policy. On the other hand, General Smuts and his partisans, who constituted a majority of one in the cabinet, had been convinced by Hitler's annexation of the rump state of Czechoslovakia and subsequent demands for Danzig that "after Poland, South-West Africa." In consequence, they had come to favor belligerency, even though the Union was in no way obligated by the British guarantee to Poland. Refusing to be swayed by the arguments of General Smuts and other cabinet members who advocated imperial cooperation, the Prime Minister, on September 4, introduced in the House of Assembly a motion favoring neutrality without impairment of Union obligations resulting from the Simonstown Agreement, membership in the League of Nations, and free association in the British Commonwealth. At the close of the debate, in which the two leaders of the cabinet eloquently set forth their conflicting views, General Smuts and his supporters brought about the defeat of the motion by a margin of 13 votes, and secured adoption (by the same majority) of the Smuts Amendment, calling for the severance of relations with Germany and continued coöperation with the British Commonwealth.

South Africa's subsequent entry into the war was achieved at the cost of a change of political leadership and a rupture of the United party. General Hertzog, supported by Dr. Malan, leader of the Nationalist Opposition, recommended a dissolution of Parliament, and upon the governor-general's rejection of his advice, resigned the premiership with an appeal to his followers to confine their activities within constitutional limits. Although General Hertzog at first admitted the constitutionality of the governor-general's action, several months later, in the Committee of Supply, he joined with Dr. Malan in criticizing General Smuts for having accepted office without a mandate from the people.

Sir Patrick Duncan's refusal of dissolution to General Hertzog raises the constitutional issue of the discretion of a governor-general in such a case. Those critics who consider refusal of dissolution unconstitutional recall that since the Imperial Conference of 1926, the governor-general's position has been homologated to that of the king, whose power to refuse dissolution, they claim, has fallen into disuse. In his discussion of the South African case, A. B. Keith, while of the opinion that there are cases in which the king would be compelled to refuse a dissolution,[2] remarks:

doubt when the Fuehrer asserted that the Sudetenland was his last territorial claim in Europe.

[2] As, for example, when a ministry which had secured a dissolution requested a second dissolution following a defeat at the polls. A. B. Keith, *The British Dominions as Sovereign States* (1938), p. 223.

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"For the king to refuse the dissolution of [the British] Parliament would plainly be a step of the most serious character if it were asked for in order to determine the issue of peace or war."[3] For this reason, he holds, General Hertzog might well have felt entitled to a dissolution. On the other hand, as Keith points out, there was a majority of one in the Hertzog cabinet opposed to the neutrality resolution; so the cabinet as a whole could not advise the governor-general to dissolve Parliament. Those who assert the unconstitutionality of the refusal of dissolution recall that in recent years the practice has developed in England for the prime minister, alone, to advise the Crown regarding dissolution. Keith evidently still maintains that in the Dominions it is customary for the cabinet to tender advice regarding dissolution.[4] The fact that General Smuts was in a position to assure Sir Patrick Duncan (a South African and former supporter of Smuts) of being able to form a ministry which could carry on with the support of Parliament is an added argument in favor of the governor-general's refusal of dissolution.[5] Constitutionality aside, it appears from the political viewpoint that dissolution would probably have increased factional bitterness, and would have placed the Union in the uncertain position of remaining neutral during an election campaign in which the German minister and his friends would undoubtedly have aided the Nationalist cause.

The new Government, formed by General Smuts on September 6, at Sir Patrick Duncan's request, included both English and Afrikaans-speaking leaders of the United party who were loyal to Smuts, and also the heads of the Dominion[6] and Labor parties, whose support he had received on the issue of belligerency. A state of war with Germany was brought about on September 6 (three days after expiration of the British ultimatum to Germany) by a proclamation of the governor-general acting on the authority vested in him under the Royal Executive Functions and Seals Act of 1934.[7]

In the months after the opening of the war, there occurred a disintegra-

[3] A. B. Keith, "Notes on Imperial Constitutional Law," *Jour. of Comparative Legislation and International Law*, Vol. 21 (Nov., 1939), pp. 254–255.

[4] A. B. Keith, *The British Cabinet System, 1830–1938*, p. 399.

[5] If Sir Patrick Duncan's action be compared with Lord Byng's refusal of dissolution to Premier Mackenzie King of Canada in 1926, Lord Byng seems to have been less justified in his refusal. Mr. King was undefeated in Parliament, and there was no other minister who could command a parliamentary majority to carry on the government.

[6] The Dominion party, since its formation in 1934, has held neutrality to be incompatible with Dominion status.

[7] The significance of South Africa's three-day neutrality period, while Great Britain and other members of the Commonwealth were at war, has been discussed in Professor Clokie's article. *Ibid.*, p. 743.

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tion of the United Party Fusion which left General Smuts in control of the party machinery, and subsequently a realignment of opposition groups. Protracted negotiations between the more extreme Nationalists under Dr. Malan and the Hertzogites finally culminated in the formation of the Reunited Nationalist, or People's, party (commonly known as the "or" party), a title which reflects the unwillingness of the two factions to merge their identity. Another obstacle to agreement was the dispute on the issue of republicanism. Upon organizing as the Opposition to the United party in 1934, the Malanite Nationalists had taken as their slogan, "A republic, not necessarily in our time." In 1939, their hostility to the Government's war policy led them to demand insistently that republicanism should be made a tenet of the new party. This proposal, while acceptable to some Hertzogites, including Mr. Pirow, former minister of defense and a pronounced Germanophile,[8] aroused opposition from the moderates, among whom were General Hertzog himself and his chief deputy, Mr. Havenga. In taking the position that "a republican form of government separated from the British Crown is best suited to the traditions and aspirations of the South African people, the "or" party appears to have accepted the Nationalist view. As a sop to the moderates, it is conceded that a republic should be achieved, not merely by a parliamentary majority, but by a special mandate from the voters. Nationalist enthusiasm for republicanism expressed itself in July, 1940, in the formulation of plans for a mass meeting "to consider active constitutional steps to establish a republic." General Hertzog, although strongly in favor of restoring peace with Germany, declined to become a party to such a republican move, which he characterized as "extremely undesirable under the present circumstances."

Turning from party politics to the Union's war effort, we find that for at least two cogent reasons the Smuts Government has adopted a policy of limited participation, which excludes military action in the European theatre of the war. In the first place, the Government's pledge not to send troops overseas has undoubtedly made the status of belligerency acceptable to many South Africans who would otherwise favor neutrality. Furthermore, as a result of Mr. Pirow's inactivity as minister of defense in the Fusion Cabinet, Prime Minister Smuts, who holds the Defense portfolio, found the Union in a state of military unpreparedness in September, 1939. Since then, the Defense Department has been working overtime to train and equip the defense forces so that they may assume responsibility for the land and air defense of the Union and also help

[8] Although denying that he had ever contemplated the return of South-West Africa or Tanganyika to Germany, Mr. Pirow, early in 1938, admitted having once said he would welcome Germany as a colonial power. In June, 1939, he asserted that the problem of compensating Germany for the loss of her colonies must be faced.

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protect neighboring African colonies. Although disavowing any idea of a Monroe Doctrine for Africa, the Prime Minister has pledged assistance to British colonies in Southern Africa—"northern outposts of the Union"—and has further stated that Mozambique should be able to rely on South African aid. Since there was some opposition to the idea of ordering troops to serve outside the Union, General Smuts, in November, 1939, stated that only volunteers would be sent beyond the frontiers to protect African colonies. In April, 1940, however, it was officially announced that no new volunteers would be accepted for the defense forces unless they were prepared to serve anywhere in Africa. The following month, those members of the defense forces who had refused to sign the new oath binding them to serve outside the Union were given permission to terminate their service with the forces.

By the spring of 1940, volunteer recruits for the Active Citizen Force totalled 60,000, a creditable proportion of the total European population of 2,000,000; but there was still a deficiency in equipment, much of which must be imported from overseas. Owing in no small degree to Mr. Pirow's failure to carry out his plans for Union rearmament, defense expenditure has been markedly increased under the Smuts régime. Of £6,000,000 made available for the Defense Department's expansion program of 1938–41 (in addition to regular defense estimates, which amounted to £1,978,000 in 1938–39), Mr. Pirow by September, 1939, had spent less than £300,000. By contrast, Mr. Hofmeyr's war budget called for a defense expenditure of £14,000,000, or 24 per cent of the estimated budget expenditure for 1940–41. Because of increased military activities resulting from Italy's entry into the war, it is now anticipated that additional defense appropriations will be necessary during the current financial year.

While declining to participate in the Commonwealth air training scheme which is centered in Canada, the Union Government offered to train air personnel from Great Britain and British African colonies. The British Air Ministry accepted this proposal in April, 1940, but with the intensification of the European conflict, found it inexpedient to send men to the Union for training. Postponement of the scheme was announced in July. As for naval defense, the Union, as always, relies primarily on the British Navy, with which the Smuts Government is coöperating under the agreement regarding Simonstown. Coastal defenses are now said to be adequate except in case of attack by a battle fleet. Until the entry of Italy into the war, South African forces saw little action; but with the extension of hostilities to Africa, a mobile field force has been dispatched to British East Africa and South African planes have bombed Ethiopia.

Another aspect of the South African war effort is economic coöperation with Great Britain. It may be noted that South Africa was the only British Dominion in which trade with Germany accounted for an ap-

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preciable share of total commerce.[9] The Union is now sending an increased amount of foodstuffs to the United Kingdom, which has agreed to support the Union wool market as an offset to the loss of extensive German purchases. South Africa's gold is perhaps her most important contribution toward victory.

In addition to taking military and economic defense measures, the Smuts Government has been waging a campaign against Nazi propaganda in the Union, as well as in South-West Africa. It is apparent that for some time prior to the opening of the present war, the Nazis were developing a "fifth column" in South Africa and its mandated territory. Nazi propaganda was spread by broadcasting from Zeesen, by diplomatic and trade agents, as well as by the activities of German colonists who, at the close of the World War, remained in South-West Africa. According to disclosures made by Prime Minister Smuts, the Hertzog Government, by sending large police reinforcements to South-West Africa in the spring of 1939, blocked a Nazi *Putsch* in the mandated territory. The Prime Minister further revealed that a plot between Nazi agents in contact with the German legation and the Black Shirts (a South African pro-Nazi organization) to march on Johannesburg and Pretoria was frustrated by official precautions taken before and at the beginning of the war. Nazi agents and many Nazi sympathizers of Union nationality, some of whom held important positions in the government service and in business, have now been interned. Since the invasion of the Low Countries, there has been a move to dismiss German employees from industrial concerns. Attempts have been made to counteract Nazi broadcasting through Government radio programs and the organization of a Unity Truth Service, which distributes anti-Nazi pamphlets.

In view of the lack of unanimity for South African participation in the war, it is of interest to attempt to determine the trend of public opinion regarding the Smuts Government and its war policy since September, 1939. With regard to the attitude of the general public at the outbreak of the war, it has been estimated by Colonel Reitz (who, as Minister of Native Affairs, must be considered as an *ex parte* authority) that 50 per cent of the Afrikaans-speaking population favored participation in the war.[10] Approval on the part of the British element was undoubtedly overwhelming. General Hertzog has implied that a rebellion would have been raised by English-speaking South Africans if Parliament had not author-

[9] Germany took 18.8 per cent of Union merchandise exports in 1938; 7.9 per cent of Union imports, including government stores, came from Germany in 1938.

[10] Broadcast from London, Oct. 25, 1939. Since the Afrikaans element constitutes roughly 60 per cent of the European population and the British 40 per cent, Colonel Reitz's statement would imply that 70 per cent of the people favored entering the war. This proportion may be contrasted with the vote of 80 to 67 by which the Smuts amendment for belligerency was carried in the House.

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ized belligerency, an intimation which was declared by Prime Minister Smuts to be unfounded.

During the first months of the war, the Smuts cabinet apparently strengthened its position. In by-elections to Parliament and the provincial councils, the Government has not fared badly. If contests in rural areas with an overwhelmingly Afrikaans-speaking population are taken as affording a real test of the Government's strength, we find that the Nationalists were able to retain the parliamentary constituency of Kuruman (Cape). On the other hand, United party supporters of the Government triumphed over the Nationalists in two out of three provincial council elections, the most recent of which was held in March, 1940.[11]

When Parliament met in January, 1940, General Hertzog brought about a trial of the Government's strength by his motion to restore peaceful relations with Germany. Although a considerable element of the European population has never sympathized with the Allied cause, the former Premier's open defense of Hitler in support of his motion antagonized a number of the Opposition. The increased Government majority (22 votes compared with 13 in September) by which Hertzog's motion was defeated on January 27 may be attributed largely to Nationalist abstentions.

The German attack on Holland aroused only tepid sympathy from prominent members of the Opposition—Hertzog, Malan, and Louw—but two Hertzogites in the Orange Free State announced at this time the transfer of their allegiance to General Smuts. Labor groups, although recognizing Nazism as a foe of trade unions, have been divided on the issue of neutrality. It may be noted that since invasion of the Low Countries and France, the Mine Workers Union (representing 17,000 European mine workers on the Rand) rescinded its neutrality resolution of the previous September.

South Africa's entry into war with Italy on June 11,[12] and the subsequent collapse of French resistance, was followed by a new peace offensive set in motion by the Opposition leaders, Hertzog and Malan. Their statement of June 24 condemned the Government for entering into war with Italy without parliamentary sanction and demanded that Parliament, which had adjourned on May 14, be summoned. Calling for the restoration of peace, this manifesto urged Afrikaners to hold protest meetings. In line with Mr. Pirow's recent suggestion that the "or" party might

[11] At Losberg (Transvaal), the United Party candidate increased his majority by 200 over 1936; at Carolina (Transvaal), the Nationalists had counted on the seat, but the United party won by 114. At Hopetown, the Nationalists retained the seat by a majority of 339.

[12] War with Italy was brought about by a proclamation of the Governor-General issued June 12. This proclamation dated belligerency from June 11, the day on which the Italian declaration of war took effect.

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well have its own "sentries and storm troops," the Opposition leaders further advocated the establishment of committees of vigilance as a protection against tyranny.[13] At numerous rallies organized by General Hertzog, peace resolutions were passed. On the Government side of the ledger, one senator who voted for neutrality in September, 1939, has now reversed himself after the defeat of France and has urged all parties to stand behind General Smuts. It may be added that among the Hertzogites who have not followed their chief in this peace crusade is Mr. Havenga, former minister of finance and at one time the predicted political heir of General Hertzog. The Prime Minister took the position that Parliament had already rejected this "dishonorable proposal."

When Parliament was called in special session at the end of August for the purpose of voting additional war expenditure, General Hertzog renewed the peace drive by introducing in the House of Assembly, on August 29, a motion favoring immediate peace negotiations with Germany and Italy. Asserting German superiority on land and in the air, he declared that the war was hopelessly lost. In reply, the Prime Minister condemned Hertzog's "glorification of Germany" and reaffirmed South Africa's support of Great Britain in her war effort. Two days later, the House rejected General Hertzog's motion by a vote of 83 to 65, and by the same vote confirmed the stand taken on January 27, when Hertzog's earlier peace motion was defeated by a count of 81 to 59.

In the light of revelations regarding activities of Nazi agents in Western Europe as well as in the Union, both the republican agitation and the recent peace offensive in South Africa seem to indicate that, wittingly in some instances and unwittingly in others, members of the Opposition are playing the rôle of potential "fifth columnists." It is not unlikely that this element might seriously threaten the unity of the Dominion if the German *Blitzkrieg* against Great Britain should prove successful. Mr. Pirow's well-known German sympathies, coupled with his failure to deny or repent of his shortcomings as minister of defense and Dr. Malan's oft-repeated unwillingness to fight Germany on the issue of retaining South-West Africa, tend to substantiate such a view. Some members of the dissident group are strongly Germanophile, but many others are primarily anti-British at all costs. In a recent condemnation of the "fifth column" minority, General Smuts reminded his listeners: "We are the only country in the British Commonwealth where such an unfortunate internal situation exists." Firmly resolved to carry on with its war policy, the Government has announced that strong measures will be taken against subversive activities.

It is not too much to say that not merely the fate of General Smuts and

[13] The Government in June commandeered all rifles and ammunition in the possession of individuals and rifle associations.

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his colleagues; but the political future of South Africa, hangs in the balance, awaiting the outcome of the German attack on Great Britain. Should British resistance seem to weaken, it is likely that defeatist elements among the Opposition will press the issues of republicanism and secession, as well as peace, in the coming session of Parliament. As regards the legal aspect of secession, the Royal Executive Function and Seals Act passed by the Union Parliament in 1934 authorizes the governor-general to sign a measure on behalf of the king, if the royal signature cannot be obtained. Professor Keith in 1934 expressed the opinion that in strict law there seemed to be no obstacle to passage of an act by the South African Parliament providing for secession from the British Commonwealth.[14] From the external viewpoint, it is fairly safe to predict that in case of a German victory over Britain, the Union would be the first Dominion (if exception is made for Eire) over which Hitler would attempt to extend his sway. The leading gold-producing country in the world, with its mandated territory of South-West Africa, a strategic gateway to the Indian Ocean—South Africa would be a major prize for a victorious Germany. And the Fuehrer would find a welcome in the Union from that minority of whom General Smuts has said: "They dream of a republic and would welcome it even from the hands of a Hitler."[15] On the other hand, if Britain can hold out against the invaders, General Smuts' war policy will undoubtedly seem justified to many South Africans who now favor neutrality.

LUCRETIA L. ILSLEY.

Florida State College for Women.

[14] A. B. Keith, "Notes on Imperial Constitutional Law," *Jour. of Comparative Legislation and International Law*, Vol. 16, p. 291 (Nov., 1934).

[15] Speech on Empire Day, May 24, 1940.

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NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

Under the joint auspices of the departments of political science and the Law Schools, Professor H. Lauterpacht, of Cambridge University, delivered lectures in the field of international law and organization at the Universities of Minnesota and Wisconsin during November.

Dr. Rudolph Holsti, formerly Finnish delegate to the League of Nations and foreign minister, has been appointed acting professor of political science at Stanford University.

Professor Leonard D. White, of the University of Chicago, will give courses on public administration at Stanford University during the 1941 summer session and will also direct a portion of the program of the semicentennial celebration of that institution.

At New York University, Associate Professor Arnold J. Zurcher has been promoted to a full professorship and Assistant Professor Jesse T. Carpenter to an associate professorship.

After declining numerous invitations, during the period since he left Columbia University in 1917, to reënter academic life, Dr. Charles A. Beard has accepted an appointment at the Johns Hopkins University as professor of American history.

Professors Joseph P. Harris, of Northwestern University, and Floyd W. Reeves, of the University of Chicago, are two of the six members of an advisory committee appointed in September by President Roosevelt to assist in coördinating plans for the administration of the Selective Service Training Act.

Following his appointment by President Roosevelt to the post of Director of Selective Service, President Clarence A. Dykstra was granted an indefinite leave of absence by the board of regents of the University of Wisconsin. He expects, however, to visit the campus frequently and to remain in close touch with University affairs.

Count Carlo Sforza, former minister of foreign affairs in Italy and Italian ambassador to France during the first World War, is serving as Carnegie visiting professor at Union College.

A gift of $200,000 to the University of Michigan by Mr. John W. Anderson of the Law class of 1891 has provided an endowment for a chair to be called the James Orin Murfin professorship of political science. Appointment to the chair has not yet been made.

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Dr. William B. Guthrie, professor emeritus of government at the College of the City of New York, died in New York City on November 6 at the age of seventy-one. At his retirement, last February, he had served his institution through a period of thirty-seven years.

Dr. A. A. Roden, in charge of the courses in government at Denison University, has been granted sabbatical leave for the second semester of the present year in order to study newer developments in teaching techniques in political science. He will appreciate having his attention called to instances in which new methods are in use.

Dr. Earl E. Warner, formerly of Ohio State University, is now assistant professor of political science at the University of Mississippi. At Ohio State, Mr. Ceph L. Stephens has been appointed instructor.

At Wayne University, Professor Laurence Michelmore has taken a year's leave of absence to join the staff of the Detroit Bureau of Government Research, in charge of county and state studies; Dr. Donald S. Hecock has assumed immediate direction of the in-service training courses for public employees conducted under the George Dean Act by the School of Public Affairs and Social Work; and Mr. Morris Ramsey, formerly registrar of the Fordson Junior College, has been made instructor in government.

Professor Karl Loewenstein, of Amherst College, delivered addresses at the September meeting of the American Bar Association in Philadelphia on "Civil Liberties and the Fifth Column" and "The New Agrarian System in Germany."

Professor Richard C. Spencer, recently of the University of Cincinnati, is now with the municipal finance section of the W.P.A. in Washington, D. C.

The Institute of Local and State Government at the University of Pennsylvania announces two additions to its staff: Dr. Jay B. Westcott, recently with the Budget and Finance Office of the United States Department of Agriculture, following completion of his work at Harvard University; and Dr. James J. Anderson, assistant in political science at Cornell University. Dr. Westcott is also an instructor in the political science department of the University of Pennsylvania.

In February, Mr. William Allen White will deliver a series of lectures on the John Huston Finley Memorial Foundation in American Citizenship at Knox College.

Mr. M. W. Fodor, for many years foreign correspondent for the *Manchester Guardian* and the Chicago *Daily News*, has joined the staff of the

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Illinois Institute of Technology. He is lecturing on international relations at the Lewis Institute Branch and on recent politico-economic developments in Europe at the Armour College of Engineering.

Mr. G. Lyle Belsley, director of the Civil Service Assembly, has been granted an indefinite leave of absence by the Assembly's executive council to serve as an assistant to Mr. W. H. McReynolds, administrative assistant to the President. Mr. James M. Mitchell, formerly assistant director of the Assembly, has been made acting director.

Mr. Frank Bane, executive director of the Council of State Governments, is serving temporarily as head of the division of state and local coöperation of the Advisory Commission to the Council of National Defense.

Mr. Frank W. Herring, executive director of the American Public Works Association, has been granted leave of absence to accept a position as assistant director of the National Resources Planning Board, and Mr. Norman Hebden has been made acting director of the Public Works Association.

At the University of Tennessee, a committee has been appointed to establish a governmental reference service to make available to public agencies and officials the library and research materials located at the University.

On November 15 and 16, the University of Tennessee held a conference for management officials of electricity distribution agencies, including municipal plants and rural coöperatives. Problems of utilization, personnel management, and financial administration were discussed.

The department of history and political science at Pennsylvania State College, of which Professor Jacob Tanger has been acting head during the past ten years, has been divided, and Professor Tanger has been made head of the department of political science.

Dr. Samuel Guy Inman, visiting professor of Latin American relations at the University of Pennsylvania, has resumed his lectures at that institution after an extended trip through South and Central America.

Professor William P. Maddox, of the University of Pennsylvania, spent the past summer investigating economic and political conditions in Japan, Manchoukuo, and the occupied portions of China.

At the University of Chicago, Professor Marshall E. Dimock's leave of absence has been extended in order that he may continue to serve as administrative assistant to the Attorney-General of the United States.

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Professor A. N. Christensen, of the University of Minnesota, was on the staff of an Institute on Employment Security held at Williams Bay, Wisconsin, October 7–12, under the sponsorship of the Social Security Board and the Regional Offices of Regions 5 and 6.

At the University of Washington, the department of political science is joining with other social science departments in sponsoring a series of lectures on the general subject, "America and the World at War." Professors Martin, Cole, Mander, and Taylor are participating.

At the University of Nebraska, Dr. Carl Hanson, who recently received his degree at the University of Illinois, is substituting for Professor Lane W. Lancaster, now teaching at Northwestern University.

Professor Hans J. Morgenthau, of the University of Kansas City, has received a grant from the American Philosophical Society for a study of the relationship between the political philosophy of Liberalism and foreign policy, with special reference to the basic ideas of pre- and post-World War foreign policy.

Among persons recently receiving the doctorate at the University of Chicago, Mr. John C. Adams has been appointed instructor in political science at the University of Buffalo, and Miss Gladys L. Baker, associate social science analyst, has been transferred from the U. S. Department of Agriculture to the National Defense Commission.

Professors G. A. Borgese, of the University of Chicago, Henry R. Spencer, of Ohio State University, Carl J. Friedrich, of Harvard University, and Oscar Jászi and John D. Lewis, of Oberlin College, were among those participating in a special series of ten lectures on "Democracy, Communism, and Fascism," given at Oberlin College during October and November.

Mr. Floyd W. Reeves, professor of administration at the University of Chicago and director of the American Youth Commission, is serving as executive assistant for labor supply in the Labor Division of the Advisory Commission to the Council of National Defense. The services of Mr. Reeves have been loaned, for an indefinite period, by the University of Chicago and the American Youth Commission. On August 27, 1940, President Roosevelt appointed him a member of the Advisory Committee on Selective Service, and Mr. Reeves is now dividing his time between this Committee and the Defense Commission.

Dr. Bernard Brodie, who received his degree at the June convocation of the University of Chicago, has been appointed a member of the Institute for Advanced Study at Princeton on a grant from the Carnegie Corpora-

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tion. He will participate in the research being forwarded at the Institute under the general chairmanship of Professor Edward N. Earle on the various problems and implications of the defense program of the United States.

The Social Science Research Council announces the appointment of two research secretaries to its staff: Dr. Philip E. Mosely, associate professor of history at Cornell University, and Dr. Lloyd G. Reynolds, associate in political economy at Johns Hopkins University. In addition to participation in general staff work, Dr. Mosely will be especially concerned with the development of research in the field of international relations and Dr. Reynolds in the field of employment research.

Professor Walter Thompson, of Stanford University, died of a heart attack on October 7 at the age of fifty-one. A graduate of McPherson College, Professor Thompson held a master's degree from the University of Kansas and a doctor's degree from the University of Wisconsin, and had studied also at the University of Chicago and at the Sorbonne. He had held teaching posts at the Universities of Wisconsin and Oklahoma and had been a member of the Stanford faculty for twelve years. In 1931, he served as visiting Carnegie professor at the Universities of Uppsala and Kongelige Frederiks in Sweden. His books included *Federal Centralization* and *Liquor Control in Sweden.*

The sixtieth annual meeting of the Academy of Political Science, held at the Hotel Astor, New York City, on November 13, was devoted to the subject of "The Defense of the United States," with sessions on the armed forces and on the utilization of productive energies.

The theme of the second annual conference on governmental problems, held at Marshall College on October 30, was "Justice in a Democracy." Practically all of the addresses and round table discussions were given by representatives of the bench and bar, among them Associate Justice Justin Miller, of the United States Court of Appeals, Washington, D. C.

The 1940 meeting of the Southern Political Science Association was held at Furman University, Greenville, South Carolina, November 7, 8, and 9. There were round-tables on political theory, with Professor René Williamson as leader, on local government, with Professor Elwyn Mauck as leader, and on Far Eastern Affairs, with Dean William C. Johnstone as leader. Professor Sigmund Neumann, of Wesleyan University, represented the American Political Science Association at the meeting.

An Institute on Legislatures and Parties in American Democracy was held in the Center for Continuation Study at the University of Minnesota, October 29–30, under the joint auspices of the League of Women Voters

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and the political science department. Participating in the program were Professors William Anderson, A. N. Christensen, E. M. Kirkpatrick, B. E. Lippincott, Lloyd M. Short, and J. R. Starr, of the political science department, and Professor Horace Read, of the Law School.

The Tax Policy League, organized in 1932 and operated since that time as a national research and public information service in the field of public finance, with headquarters in New York, has become affiliated with the Wharton School of Finance and Commerce at the University of Pennsylvania, where it will hereafter be known as the Tax Institute. Legal transfer was made on authorization given at a formal meeting of the League membership on October 24. Dr. Mabel L. Walker, executive secretary of the League since its organization, will continue as director of the Tax Institute, which will maintain headquarters at 135 S. Thirty-sixth Street, Philadelphia. The transfer was made possible by the Alfred P. Sloan Foundation, which has awarded a grant to the University to support the work of the Tax Institute during its first year.

The effect of the national defense program on cities was one of the chief topics of discussion at the twenty-seventh annual conference of the International City Managers' Association, held at Colorado Springs late in September. Speakers included Daniel W. Hoan, mayor of Milwaukee for twenty-four years and now associate director of the division of state and local coöperation, Council of National Defense; Earl D. Mallery, director, American Municipal Association; Carl H. Chatters, executive director, Municipal Finance Officers' Association; Albert W. Noonan, executive director, National Association of Assessing Officers; and David L. Robinson, Jr., executive director of Public Administration Service. The conference, which was attended by 100 city managers and 140 other persons, also heard an address by L. P. Cookingham, city manager of Kansas City, Missouri, and president of the Association for the past year, on the subject of "The Rôle of Management in a Democracy," and a banquet address by Robert L. Stearns, president of the University of Colorado, on the subject of "The National Emergency and Our Public Institutions." Problems of municipal finance, municipal public relations, and municipal management also were discussed at the conference. Mr. Roy S. Braden, town manager of Greenbelt, Maryland, was elected president of the Association, and City Managers C. Sophus Johnson, Grand Rapids, Michigan, H. J. Graeser, Marshall, Texas, and A. F. Newman, Decatur, Georgia, were chosen vice-presidents.

The Program of the Social Science Research Council's Committee on Public Administration. While the Committee on Public Administration of the Social Science Research Council deals with economists, lawyers,

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geographers, psychologists, and scholars in other social sciences, its chief work is with political scientists; and the Council has within the year urged the Committee to consider itself a committee in the general field of government, not construing the scope of public administration too narrowly. The Committee hopes that at the December meeting of the American Political Science Association, the Association's delegates to the Social Science Research Council may arouse effective discussion of this part of the work of the Council; and to the end that members may have a better picture of the Committee's activities and current program, the Managing Editor has kindly granted space in the REVIEW for a brief report.

The Committee seeks to carry on in its field the general program of the Council in stimulating, planning, promoting, and improving research, its personnel, materials, methods, and dissemination. It uses many of the devices of the Council: the conference, the committee, the memorandum, the report. It has on occasion carried on directly under its auspices special studies which no other agency seemed equipped to undertake. It has no such research under way at present, but the reports resulting from some of its studies are still moving toward publication. *Public Administration and the U. S. Department of Agriculture*, by John M. Gaus and Leon O. Wolcott, with a chapter by Verne Lewis, is scheduled for publication in November, 1940; *University Preparation for Public Administration*, by George A. Graham, in January, 1941; and *The Administration of the Emergency Work Relief Program*, by Arthur W. Macmahon and John D. Millett, based upon the "capture and record" study by Mr. Macmahon and Gladys Ogden, in February, 1941.

Conspectus of Research Fields. The Committee has issued since 1937 the following memoranda outlining suggested research topics: (1) Administrative Law, by Oliver P. Field; (2) Public Personnel Administration, by Leonard D. White; (3) The Use of the Government Corporation, by a conference committee; (4) Employer-Employee Relations in the Public Service, sponsored by a committee: John J. Corson, Sterling Spero, and Arnold Zander; John J. Corson, draftsman.

The Committee has in progress the preparation of similar memoranda in the following fields: (1) Government and Public Opinion. Committee: Harwood Childs, Hadley Cantril, and Lloyd Free; Bruce L. Smith, draftsman; (2) Judicial Administration. Committee: Judge Charles E. Clark, chairman, Henry Chandler, administrator of the U. S. Courts, and six others; Charles U. Samenow, draftsman; (3) Public Budgeting. John D. Millett, draftsman; (4) The Legislative Process. Committee: Edwin E. Witte and others; Garland Routt, draftsman.

New Materials for Research. Dean Mosher described in this REVIEW for February, 1939, the program of the Special Committee on Research Materials, under the chairmanship of George C. S. Benson, in seeking to

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stimulate case reports in administration. The first collection of twenty cases was issued in a loose-leaf binder in May, 1940; a second collection of about the same number in November, 1940. About twenty-five governmental agencies, administrators, and students contributed cases to these two batches. The Committee hopes to develop a continuing flow for periodic publication.

Administrative Aptitude. In 1939, the President's Committee on Civil Service Improvement requested the aid of the Council in recommending scientific tests for administrative ability. The Council remitted the problem to the Committee on Public Administration for the stimulation of study in collaboration with psychologists. It is recognized that the isolation, analysis, and perfection of usable tests for administrative ability are long-range problems. The Committee is keeping in touch with L. L. Thurstone of Chicago in his experiments at factorial analysis in this field; it is seeking to collect Strong interest tests from several hundred administrators during the year 1940–41, for Professor Strong to score, to see whether there are distinctive profiles for administrators. The Staff is counselling Albert Blankenship, Ph.D. in psychology, who is devoting a year, under a fellowship from the Rockefeller Foundation, in equipping himself to apply his knowledge of testing techniques in this field. The Committee hopes to stimulate biographies and autobiographies of administrators as an important contribution to understanding of administrative ability.

Federal-State-Local Relations. During the year, the Committee gave renewed attention to programming research in federal-state-local relations. An outline, based in part on earlier memoranda prepared for the Committee in past years by John M. Gaus, Herman Finer, Arthur Macmahon, Robert Cushman, and Joseph P. Harris, was developed by Leonard D. White. A stimulating series of working hypotheses was assembled by William Anderson, and a bibliography was begun under his supervision. These were submitted to a conference of specialists convened in June, 1940.

Promotion of Collaborative Studies. The success of the Committee in enlisting the voluntary collaboration of forty scholars in parallel local studies of city manager government has led it to apply this method of channeling research energies in other fields. A pilot study, *The Administration of Municipal Tort Liability in Los Angeles*, by Leon T. David and John Feldmeier, was published in 1939. During 1940, five parallel studies were brought to completion, with the coöperation of the city attorneys in each city: Chicago, Paul A. H. Shults, assistant city attorney, and Thelma Brook Simon, of the University of Chicago Law School; Boston, E. Edgar Fuller, of Harvard University; Medford, Massachusetts, Mark Gallagher, assistant city solicitor; Austin, Texas, Gus Levy, of the University of Texas; Washington, D. C., Robert Ferguson, of George

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Washington University Law School. The Committee is facilitating the completion of Judge Dorothy Kenyon's study of the use of hearings in municipal administration in New York City and stimulated a parallel study of Boston by Theodore C. Osborne, of the Harvard Law School.

The opportunity presented itself in April, 1940, to aid the Attorney-General's Committee on Administrative Procedure by stimulating field studies in port cities of the operation of two maritime acts, to supplement the Committee's observations in Washington. Despite the unfavorable time of year and the need for reports by June, useful reports were made in Seattle by Kenneth Cole, of the University of Washington; in San Francisco, by Charles Aikin, of the University of California, and Harvey Mansfield, then at Leland Stanford University; in New Orleans, by M. G. Dakin, of L.S.U.; in Jacksonville, by Victoria Schuck, of the Florida State College for Women; in New York, by Samuel Ehrenberg, of N.Y.U.; and in Cleveland, by Christian Larsen and Roland J. Stanger, of Western Reserve University.

Emergency Activities. During the summer, the Committee asked Arthur N. Holcombe, of Harvard University, to visit Canada to see whether the Canadian administrative adaptations to war would be instructive for the defense program of the United States. Pendleton Herring, of Harvard University, a member of the Committee, supervised the preparation of *Civil-Military Relations; Bibliographical Notes on Administrative Problems of Civilian Mobilization*, published in October, 1940. The Committee maintained Joseph P. Harris in Washington during the summer for liaison between the defense administrators and the research personnel of the country in administration. It initiated explorations of the political bases and administrative arrangements for closer coöperation between the democracies of this hemisphere and elsewhere, leading to a first conference sponsored by the Council in November, 1940.

Clearing House Activities. The staff prepared the fifth annual list of courses and professors in public administration, and a third topical checklist of researches under way in universities. Personal contacts were maintained during the year with 26 universities and research institutions; over 65 persons came to the Committee's office during the year for advice on personnel, on employment, or on education for research in administration. Over 30 persons asked advice on individual research projects, running from mere reference to source material to the reading and criticism of manuscripts.

The chairman and secretary of the Committee hold the same offices in the Committee on Research of the American Society for Public Administration. The staff of the Committee consists of Charles S. Ascher, secretary, Patterson H. French and John D. Millett, staff members, and Miss Frances Cole, editorial associate.—CHARLES S. ASCHER, *Secretary.*

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The American Presidency. By Harold J. Laski. (New York: Harper and Brothers. 1940. Pp. viii, 278. $3.50.)

Mr. Laski's analysis of the American presidency rests upon three fundamental hypotheses, to wit, that capitalism has broken down, that there is emerging some form of collectivism, and that democracy needs clear direction, which it can get only if its central motive force rests in the hands of the executive.

Unfortunately, Mr. Laski does not undertake to demonstrate the degree of validity inherent in each of these propositions. Instead, he devotes his energies to discovering the extent to which the American system of government fails to concentrate in the hands of the President the powers which he (Mr. Laski) deems requisite, and to considering ways and means by which this defect may be remedied.

The American constitutional system was conceived in fear of executive tyranny, and, despite an enormous growth in the power of the executive, the heritage still remains. Of the limitations which even today hedge about the majesty of office, five are of transcendent importance: the restriction on the President's choice of the men he may use as instruments of policy, the division of powers contained in the Constitution, the necessity of conciliating his party and not coercing it, the advisability of carrying with him the members of the business community, and the tremendous burden of the office itself.

In contrast to its English counterpart, the American cabinet is not made up of colleagues sharing a collective responsibility; instead, its members are merely "advisers to the President." The consequence is that the President alone speaks with the voice of authority. He, and not his cabinet, must mold public opinion, persuade and cajole Congress, and act as a court of final appeal on all matters of importance. The result is a task so crushing that it impairs the effective utilization of those powers of leadership that the President possesses.

Would the situation be relieved if the cabinet were granted seats in Congress? Professor Laski concedes that the suggestion has merit, but points out that it has in it the seeds of administrative disintegration. It is certainly conceivable that cabinet members might become so powerful that they could be dismissed only at the cost of vital executive-legislative coöperation.

The probability of such a development is greatly enhanced by the fact that "the President is never the master of Congress except in relatively brief intervals of emergency. Instead, Congress is at every point . . . equal with him, and, in the event of a difference of opinion, they rather than he are likely to have their way."

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Such a concentration of power in Congress, in Mr. Laski's opinion, can only result in incoherence and irresponsibility. In the nature of things, Congress itself cannot present a unified over-all legislative program. It must, instead, respond to sectional interests and group pressures. By contrast, to a much greater extent the President represents the national point of view.

Recognizing the impossibility of reorganizing the American government along British lines, Professor Laski suggests, nevertheless, a number of modifications which would bring the American system into greater conformity with "sound organizational practice." The abolition of the electoral college and the substitution therefor of majority election would, in his opinion, have the salutary effect of minimizing the influence of state machines, and thus contribute to the development of national parties. The enactment by Congress of a self-denying ordinance relative to the initiation of public expenditures and the abandonment by the Senate of the practice of senatorial courtesy would similarly contribute to this end. A return to the practice of choosing cabinet officers from among those who have had long experience in or with Congress would also help to close the gap between the executive and the legislature. But no one of these changes would accomplish the *desideratum* Mr. Laski has in mind. As he views the situation, the organization of national parties under centralized leadership would alone create the instrumentalities necessary for the formulation of unified over-all programs of legislation and supply the medium through which such programs could be translated into governmental action.

Because of the brilliance of his analysis, one can only regret that Professor Laski has overlooked or neglected certain vital aspects of his subject. The reader will certainly wish to be enlightened further as to why Mr. Laski believes that the development of national parties will result in a working adjustment between the conflicting desires of the diverse groups in the body politic superior to that which emanates from Congress today; as to why the development of such parties may not result instead in an imaginary mandate to carry on the policies the leaders desire; and, if the latter should prove to be the case, whether such a phenomenon would be a mark of progress or retrogression, judged by democratic standards.

In this connection, one can only wonder whether the British Empire would be confronted with the problem of Ireland today if Parliament had been a forum in which sectional interests had had greater sway instead of one in which the national parties dominated the proceedings. Although the American system did not prevent the Civil War, it is perhaps worth speculating as to whether that war might not have broken out sooner, with the consequent destruction of the Union, if sectional interests had

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been less represented in the legislative process than they actually were. In other words, Mr. Laski might profitably have devoted some attention to the question of whether the incoherence in public policy caused by local interests and pressure groups, and the stalemates which result from the separation of powers, are not a cheap price to pay for increased national unity, without which the very fabric of American society might be rent asunder.

In like fashion, the reader will regret that nowhere does Mr. Laski consider the possible effect upon the problem he poses of an internal reorganization of the Congress. Could not the influence of local and group pressures be reduced by a more effective utilization of the legislative caucus? What would be the effect upon the separation of powers of abolishing the seniority rule and electing committee chairmen more nearly in harmony with the rank and file of Congress? Does the experience of the state legislative councils or the Temporary National Economic Committee suggest a line of executive-legislative organization worth exploring?

Finally, Mr. Laski might well have considered the question posed by Professor Pendleton Herring when he asks: "How far is it wise to go in the concentration of authority?" Professor Herring, it will be recalled, suggests that "if we make the stakes [too] high we run the chance of disrupting the game of politics. Certain powerful interests may conclude that we cannot afford to lose the presidency!"

In spite of its incompleteness, *The American Presidency* is as thought-provoking an evaluation of American political practices as has been published in the United States in recent decades. Although more limited in scope, it takes its place along with the works of de Tocqueville and Bryce as an acute analysis of American political institutions.

SCHUYLER C. WALLACE.

Columbia University.

Ballot Behavior; A Study of Presidential Elections. BY LOUIS H. BEAN. (Washington, D. C.: American Council on Public Affairs. 1940. Pp. 102. $1.50.)

Dr. Bean does not claim that he has found a formula for infallibly predicting what voters will do at the polls. He does show, however, in this non-technical little volume, that a knowledge of voting behavior over a considerable period of time greatly narrows the sphere of unpredictability. His conclusions are based on a statistical analysis of relationships between the voting behavior of the country as a whole since 1896 and the voting behavior in each of the forty-eight states; between trends in business conditions and voting behavior; and between voting behavior, electoral votes, and the political composition of Congress. Numerous charts and tables add greatly to the clearness of presentation.

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Among other things, the author finds that "although the political patterns in the states are not consistently identical with the pattern of the nation as a whole, there are nevertheless types of relationships between state and national behavior that are highly significant and useful." Knowing these types of relationship, he has succeeded in predicting the outcome of several elections with remarkable success. If, for example, one knows the political complexion of one state, as Maine, one can, from his table of past relationships, determine the political complexion for the nation as a whole and for each state, and also the party distribution of electoral votes.

Of considerable interest, too, are Mr. Bean's conclusions that the nation as a whole must go fifty-three per cent Democratic to provide for a majority of electoral votes for the Democratic party; that a ten per cent decline in business generally means a ten per cent decline in the congressional membership of the major party; and that there is a definite tendency for states with greater than average political flexibility forty years ago to change persistently toward the average.

As Professor Merriam states in his introduction, this study deserves the careful consideration of specialist and layman alike. Although the past will always remain a somewhat uncertain guide to the future, because of the unpredictable rôle of new influences, it is really surprising to discover how persistent known trends and relationships in political behavior really are.

HARWOOD L. CHILDS.

Princeton University.

Some Regional Views on Our Foreign Policy, 1940. EDITED BY FRANCIS PICKENS MILLER. (New York: Council on Foreign Relations. 1940. Pp. viii, 246.)

American Neutrality; Trial and Failure. BY CHARLES G. FENWICK. (New York: New York University Press. 1940. Pp. xii, 190.)

These two books are important documents on the impact of the current world crisis upon the thinking of educated Americans. The volume edited by Mr. Miller contains the reports of the *rapporteurs* of eleven regional committees set up during 1939–40 by the Council on Foreign Relations. These committees were composed of educators, clergymen, lawyers, civic officers, journalists, business men, financiers, and a scattering from other groups. It is a fair question, perhaps, whether a larger representation from agrarian and labor groups would not have made some of the committees more representative of American opinion. The committees considered many aspects of American foreign policy, but naturally their chief concern was how to safeguard the vital interests of the United States during and after the present war. From the reports of the discussions, the editor con-

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cludes: "The impression is growing that two ways of life are in a world-wide death struggle . . . and that the hour of decision is here." One of the most valuable parts of the book is the introductory chapter by Professor Alvin H. Hansen, entitled "American National Interest in Alternative Outcomes of the War." The volume has significance also as a record of one stage in the development of American opinion which is still in process.

Professor Fenwick's book comprises lectures on the James Stokes Foundation at New York University. The author has long been a severe critic of the historic American policy and attitude toward the politics and wars of the Old World. He has conversely been a distinguished advocate of the theory and practice of collective security. This volume is essentially a restatement of his views on these two subjects. In one chapter of twenty pages, he sketches the origin of our neutrality policy, its abandonment in 1812, the maturing of the concept of neutrality in international law during the nineteenth century, the practice and abandonment of neutrality by the United States during the war of 1914, the effect of the League Covenant on the status of neutrality, various attempts to codify the rules of maritime warfare, and the revival of neutrality first with regard to the Chaco war, and then finally in September, 1939. Obviously, no one could do justice in twenty pages to the historical aspects of this subject; and it may be remarked parenthetically that an adequate history of the strategic, economic, and political phases of this central problem of American foreign policy has yet to be written.

Chapter III outlines the long debate in the United States between 1921 and 1939 over neutrality as a policy. Summaries of the legislative enactments of 1935, 1936, 1937, and 1939 are included. Chapters IV-VI illustrate by the historical case method the difficulties of being a neutral—more exactly, the conflict between neutral and belligerent rights, and the scope of neutral duties. Chapter VII, one of the most interesting in the book, is devoted to special problems of the present war, such as neutral solidarity in the Americas, the "security zone," the case of the *Graf Spee*, changes in neutrality practices due to the totalitarian identification of the individual with the state, and the effect of the omission of formal declaration of war.

"Fundamentally," concludes Professor Fenwick, "the problem of neutrality is a result of an unorganized community of nations. The true criticism of it is not that it may not be the best policy to pursue when war has actually broken out and it is too late to restore order . . ." Rather, in his judgment, the criticism should be "directed against the pre-war policies of the nation which, seeing an impending catastrophe, found no way to avert it while there was yet time."

MARGARET SPROUT.

Princeton, New Jersey.

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Journal as Ambassador to Great Britain. By Charles G. Dawes. (New York: The Macmillan Company. 1939. Pp. ix, 462. $5.00.)

This is more than the journal of an ambassador covering his two and a half years' mission; it is the revelation of a man. On one page, we find him traveling from Chicago to Milwaukee to visit a former associate who was seriously ill. On another page, he reports enjoying a lecture on "Modern Makers of Ancient History," or a lecture on the discoveries at Ur. On still another day, he was the only foreign ambassador invited to be present at the first Indian Round Table Conference held in London and attended by the Indian princes.

Again, he is preparing to give a lecture on the different methods of writing history and has surrounded himself with the volumes of Appian, Thucydides, Dio Cassius, Caesar, Strabo, Plutarch, and Suetonius from the Loeb Classical Library. From his reading, he comes to the conclusion that in an emergency a great leader never acts as an ordinary man and that therefore historians often fail to comprehend his motives.

Now, he is writing a "Monograph on British Treasury Control" for the consideration of the Prime Minister and the Chancellor of the Exchequer, a large portion of which is subsequently embodied in a "Memorandum to the Royal Commission on the Civil Service" by Sir Josiah Stamp. Again, he is giving two hours daily to the study of treatises and monographs on the origin of man and the archaeological evidences thereof to prepare himself for a personal visit to the Dordogne regions and Spain. Or he is planning the financing of the Chicago Century of Progress Fair. On other occasions we find him enjoying concerts of Kreisler or of other artists. In fact, his humanity and his breadth of vision, his wisdom and tact, his incorporation into his philosophy of life of the Terentian maxim "humani nihil a me alienum puto," lead one to believe that Alberico Gentili must have had such a man as Ambassador Dawes in mind when he outlined the qualities of the ideal ambassador.

And yet, amid all this varied activity, he never once lost sight of his primary activity, the representation of the United States at the Court of St. James. The two chief diplomatic negotiations in which he engaged were the London Naval Conference, to which he was a delegate, and the meeting of the Council of the League of Nations in Paris to consider the Sino-Japanese controversy, in which he played a major rôle, although not attending any of the sessions themselves.

In his day-by-day account of the first of these, there is much "inside" material to throw light on the official documents available. He shows the influence of Senator Reed in formulating the program of the American delegation. He expresses his appreciation of the great ability of Senator Morrow as a negotiator and as a man. He reveals the opposition between Admirals Pratt and Jones on the six-inch-gun cruiser question, although

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he makes no mention of Admiral Jones going home in a huff on April 14, after the American delegates by a vote of five to two had approved Pratt's side. He hints that Stimson's delay in not "putting things" before the President promptly caused the latter embarrassment, but he fails to mention the Hoover phone call to Stimson late Tuesday night, March 25, concerning the backfire in the American press on the question of consultative pacts, which brought forth Stimson's explanatory statement to the press at midnight of the same day. His real flare for diplomacy is evidenced by his success in complying with the appeal made to him by Hoover and Stimson, after they had failed to make headway with the Foreign Office through the British Embassy in Washington, to induce Premier MacDonald to reverse the British Government's attitude on the procedure in the Franco-Italian parity dispute.

Dawes displayed real diplomacy again in the way in which he conducted himself while in Paris during the Council meeting. He was able "to exercise an influence in preventing impasses which might have occurred if the representatives of China and Japan had first gone directly to the Council," instead of operating through him. He was able "to assist in the delaying of presentation of dangerous ultimatums to the Council until our own government could exercise a conciliatory influence through our ambassadors at Tokyo and Nanking in an effort to resolve them." Through his advice, the Council refrained from public meetings, when a delay tended to clarify the atmosphere. Concerning the Paris episode, Dawes says: "While fully recognizing its [the League's] world usefulness, my contact with its work and methods, as representing the United States, likewise convinces me that for us to become an ally of the League, instead of an associate in certain of its constructive efforts from time to time, would not materially add to its influence, while it would be most destructive of our own."

Scattered throughout the volume are the texts of most of the author's addresses during this period, and other important documents and relevant newspaper clippings not easily available elsewhere. There are also interspersed words of wisdom, one or two of which the reviewer cannot forbear repeating. For instance, on the influence to be attached to experts, Dawes quotes the following statement of Lord Salisbury: "You listen too much to soldiers. No lesson seems to be so deeply inculcated by the experience of life as that you should never trust experts. If you believe the doctors, nothing is wholesome; if you believe the theologians, nothing is innocent; if you believe the soldiers, nothing is safe. They all require to have their strong wine diluted by a very large admixture of common sense."

With regard to diplomacy in general, he has this to say: "Whatever may be said currently and superficially to the contrary, the attitude of a

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nation in an international negotiation or conference is always determined primarily by its conception of its own self-interest." And again: "No voluntary individual, national, or international understandings of great importance are ever permanent unless they are based upon a substantial mutual interest."

Catholic University of America. HERBERT WRIGHT.

Public Assistance: Vol. I. American Principles and Policies. By EDITH ABBOTT (Chicago: University of Chicago Press. 1940. Pp. xviii, 894. $4.50.)

Administration of Public Welfare. By R. CLYDE WHITE (New York: American Book Company. 1940. Pp. xiv, 527.)

Public welfare has recently been coming into its own as a field for scholarship and teaching. High among the list of those who have pioneered in this development is Professor Edith Abbott, who, together with some of her colleagues in the School of Social Service Administration at the University of Chicago, has blazed the trail in the study of numerous aspects of public welfare legislation and administration. Professor Abbott has realized to the full that the literature of public welfare is both rich and voluminous, but that much of the richness lies unmined and difficult of access. In the present volume, she has turned to important sources of original material and has used them to illuminate a text that is both scholarly and interesting.

Professor Abbott has attempted to set out the basic principles and policies of the public assistance system of the present day, and proposes in a forthcoming second volume to discuss the important new forms of public aid that have developed since the federal Social Security Act was adopted. There is no attempt in the present volume to deal with the long history of public aid, but much historical material is drawn upon to show the slow, coasting way in which the United States has reached its present development in public welfare legislation and administration, and how much of that present development drags in its wake concepts which should have no place today. The chapters on "State Grants-in-Aid for Public Assistance; From Local Responsibility to State Aid for Public Relief" and "Federal Aid and Emergency Relief; The Long History of the Movement Toward Federal Aid for Social Welfare" are the most noteworthy brief summaries of the relief situation in the United States in recent years known to this reviewer. Indeed, all of the chapters contributed by Professor Abbott herself constitute an important summary of directions and trends and clearly indicate some of the paths which public assistance should follow in this country in order to attain its greatest effectiveness. Professor Abbott so clearly sees the need for change along the directions

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she discusses that she is apt to be impatient with the slowness of the procedure by which development is attained.

The volume is primarily a book for students in American schools of social service, as is Professor White's. The purpose of the two volumes is, however, somewhat different, for Professor White attempts to avoid the approach found through the use of original documents and to present rather a general text which covers all of the major kinds of public welfare services, with emphasis also on the varieties of organization and administrative process in the field of public welfare. He realizes that it is impossible in such an attempt to pretend to give intensive treatment to any particular welfare service, but he tries to give an over-all view of the field, with the intention of helping give perspective to the new public welfare worker or the college student or the beginning student in the school of social work, and even public welfare workers generally. The volume shows the advantages and disadvantages of such a task, for the discussion, such as that of the doctrine of separation of powers (pp. 16-18), is too elementary for the student who has had any government or administration. On the other hand, the book brings together in brief and readable form some of the important new materials and concepts as to methods of treatment of various socially defective groups. Both books will find a place in the teaching of the relation of government to public welfare, the Abbott volume for more advanced students and the White book for the beginner in the field.

Barnard College. JANE PERRY CLARK.

Social Legislation. By HELEN I. CLARKE (New York: D. Appleton-Century Company. 1940. Pp. xv, 655. $4.50.)

This volume, the latest in the Century Social Science Series, is designed for use in undergraduate courses in sociology. "With the exception of Mary Callcott's *Principles of Social Legislation* and June Purcell Guild's *Living with the Law*, both of which deal briefly with some of the subjects discussed in this book," the author writes, "no survey of the law pertaining to the family and the poor and adapted to the needs of the undergraduate social science student has heretofore appeared." The author traces briefly the historical background of various branches of American social legislation, summarizes the principal provisions of existing federal and state statutes, and analyzes the scope and influence of judicial interpretation. The purpose is not "to teach *the law*," but to show "the complexities of legal procedure, the way courts reason, the involved social problems to be met by legal resources, and the interrelations of law, the social sciences, and social work."

The book covers a wide range of subjects. Part I, entitled *Husband, Wife, Size and Quality of Family, and the State*, contains seven chapters

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tracing the evolution of the family, and of laws regulating marriage, divorce, birth control, and sterilization. Part II, *Parent, Child, and the State*, summarizes the rights and duties of parents, guardians and wards, and analyzes legislation governing adoption, illegitimacy, child welfare services, and juvenile and domestic relations courts. Part III, *The Dependent and the State*, sketches the background of the English Poor Law, the early growth of public poor relief legislation in Massachusetts, the present public poor relief legislation of the various states, the development of emergency relief legislation since 1930, and the existing provisions of the social security program.

Whether subject-matter of this kind can best be taught as a specialized course by sociologists or as a part of a general course in legislation by political scientists, is of course a debatable question. But doubtless everyone will agree that undergraduate students of sociology must in the course of their studies receive special instruction in the governmental aspects of modern social problems. This need is met in part by this book. No student after reading it can fail to grasp the importance of governmental action in the social welfare field and the vital significance of the underlying issues which are now at stake.

Princeton University. PAUL T. STAFFORD.

The Federal Financial System. By DANIEL T. SELKO (Washington, D. C.: The Brookings Institution. 1940. Pp. xii, 606. $3.50.)

Dr. Selko, a staff member of the Brookings Institution, aims to give us in this volume a comprehensive analysis of the federal financial structure and of the conduct of federal financial operations. The twenty-nine chapters in the volume are grouped under five major headings: Origin of the Federal Financial System, The Budget System, The Revenue System, The Fiscal System, and Accounting and Reporting. In addition to describing financial operations, the author also sets for himself the ambitious task of defining the essential elements of a financial system adapted to our form of government, of bringing to focus the issues presented by current problems of financial legislation and administration, and of offering practical suggestions for resolving the issues.

There has been a serious need for a descriptive treatise on federal financial operations. While some of the material covered has been available in scattered form, Dr. Selko's study is the first in recent years to present a systematic account of the combination of processes which we designate as federal financial administration. Students and teachers of public administration will welcome the study as a useful addition to the tools of their discipline.

The author's mastery of the details of financial operations results at times in a little too laborious discussion, and a more generous use of charts

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and diagrams would be helpful to the reader. The reviewer's chief criticism of the purely descriptive phase of the work is its strictly formal character. In the treatment, for example, of the preparation of the budget, the mechanics of the process are set forth clearly and concisely enough, but the human and other factors that condition the analysis and revision of expenditure estimates are left out of the picture entirely. A similar comment applies to the description of the part the Congress plays in the adoption of the expenditure program. The informal understandings between committee members and responsible officials of spending agencies have assumed a significance that cannot be ignored.

The recommendations for implementing Congress in order that expenditure estimates may be handled more expertly by that body are timely and significant. The fact that the Bureau of the Budget has not served adequately in this respect is universally admitted, but that this has been entirely the fault of the Chief Executive and the Bureau, as the author implies, is hardly the case. The spirit of coöperation has been no more manifest in Congress than it has been in the Executive. Certainly, present hearings methods are seriously inadequate, and they could be much improved if the committees had the assistance of an expert staff. In the same connection, the author's recommendation for a joint committee on estimates and appropriations seems sound and should be adopted.

But the reviewer cannot register similar approval of many of Dr. Selko's recommendations for the reorganization of the financial structure. His plan to emasculate the Treasury by restricting it to those functions "which relate directly to the management and custody of the government's cash resources" is completely at variance with the opinion of a long line of eminent authorities advocating a Treasury Department sufficiently comprehensive in its powers and activities to prepare and execute a really coördinated financial program. In the chapter on the evolution of the executive budget, the author comments that the Congress of 1789 "had little knowledge of sound budgetary principles" and that "responsibility for preparing the estimates was unwisely given to the Secretary of the Treasury." Such historical interpretation betrays the cocksureness of an immature scholar. Distinguished authorities from Alexander Hamilton to Charles A. Beard have put the case convincingly for a Treasury Department with broad responsibilities and adequate powers, including that of preparation of estimates.

The extremes to which the author's enthusiasm for legislative control carry him is revealed in his recommendation that the revenue-collecting agencies be transferred from the Treasury to separate and independent commissions under the direct supervision of committees of Congress (pp. 287-288). The purpose of this proposal is "to remove all implication of political control of revenue administration." In the opinion of the re-

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viewer, it would be difficult to conceive of a plan more likely to insure political administration than that which the author recommends.

In the final chapter dealing with the accounting system and legislative control, Dr. Selko resumes his controversy with the President's Committee on Administrative Management. The preliminary chapters, with their emphasis on legislative responsibility for control of the purse, were obviously intended to prepare the reader for a concluding appeal in behalf of the General Accounting Office. By proceeding in a question and answer fashion, the author seeks by the method of logic to establish the fundamental soundness of the present status of that office. Equally informed and competent minds have reached a conclusion directly opposed to that of Dr. Selko. To recall a remark of an eminent political scientist: "Logical reasoning is only one mode of discovering truth, at best an uncertain mode." The author's logic does not permit him to discover the weaknesses inherent in the organization of the General Accounting Office. Acknowledging that conflicts in administration do arise under the present arrangement, he advances the feeble suggestion that a committee be established "to represent the views of the various agencies concerned" and expresses the hope that a spirit of coöperation will result that will solve current problems of financial administration.

University of Missouri. MARTIN L. FAUST.

Property Taxes. By LEO DAY WOODWORTH ET AL. (New York: Tax Policy League. 1940. Pp. vi, 288. $2.50.)

Tax Yields, 1939. EDITED BY MABEL L. WALKER. (New York: Tax Policy League. 1940. Pp. xi, 126.)

Tax Systems; A Year Book of Legislative and Statistical Information. EDITED BY MAYME S. HOWARD. (Chicago: Commerce Clearing House. 1940. Pp. 393. $8.75.)

Property Taxes consists of a symposium of papers presented to the last convention of the Tax Policy League. In comprehensiveness, it leaves little to be desired, ranging over the theoretical aspects of the property tax: shifting and capitalization, benefit and ability theories, universal application and differentiation; the practical problems of administration: assessment of personal property, standards of appraisal, results of experimentation; and special problems of policy: tax limitation, homestead exemption, single tax, classified property tax, tax delinquency. Only the important function of equalization and central assessment seems largely to have been ignored. In nineteen contributions, the range of talent and opinion includes professors, a tax commissioner, an assessor, an attorney, a real estate association officer, an editor, and others. A selected bibliog-

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raphy is provided. As is often true of symposia, the articles are not of uniform merit; but the book is a valuable source of stimulating ideas, illustrative materials, and clash of opinion. One gets the impression from these discussions that the property tax is cracking, but quite unevenly and in different directions.

Tax Yields is an attempt to present in a book comprehensible to laymen the quantitative facts of taxation in the United States, including, as a good craftsman should, a detailed account of how the job was done. The volume is much expanded and improved over previous efforts; the federal government is included in the picture, figures for previous years have been revised and presented for comparative purposes, and the reliability of the data has been improved. The state figures were obtained for the most part through correspondence with the various tax officials. The statistics for the other local units do not represent first-hand data, but were obtained from published reports, or were estimates based on various publications. A most illuminating chapter deals with the difficulties encountered in gathering the data, the problems of overlapping jurisdictions, decentralized administration, earmarked funds, inaccurate tax terminology, variations in fiscal years, shared taxes and subventions, and the lack of clarity and completeness in the official reports. This is a very worthy contribution of raw and semi-processed tax material.

For some years, *Tax Systems* has been the atlas to which tax students have turned for facts concerning tax institutions and patterns. In spite of the fact that the unsettled state of international affairs has made it impossible for the Tax Research Foundation to include the usual quota of material on the tax systems of foreign countries, the eighth edition of *Tax Systems* represents a pronounced step toward the completion of a herculean project. The Tax Research Foundation intends eventually to bring within the covers of one book charts of all the taxing jurisdictions, with cross classification by taxes, tables showing tax yields and debt structures, the opinions of experts in regard to various phases of taxation, a plan for a model tax system, a statement of the principles of taxation, an assessors' manual, condensed histories of taxation, the administrative features of tax laws, a standardized state and local tax law, key decisions, the burdens on imports in each of the countries of the world, and the economic status (tax base) of each taxing jurisdiction—to name only the major objectives. The present edition marks the accomplishment of the first three aims and an approach to the last.

This impressive accumulation of information is a coöperative enterprise enlisting the efforts of hundreds of tax administrators, teachers, and lawyers, each of whom is familiar with the particular phase of the work assigned to him. A major problem is that of properly coördinating the work of the experts.

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The most important additions to the eighth edition include tax data for the Canadian provinces and dominion government, status tables on unemployment compensation and the use tax in the United States, supplementary data on the national debts of various countries, and, perhaps most important of all, tables showing tax collections in states, cities, and local areas (this in collaboration with the Tax Policy League). A very welcome improvement is the more readable printing in which most of the volume appears.

Although this work is admirable in both plan and achievement, no one, including the authors, will be entirely satisfied with it. For example, national statistics of income are surely misleading without some explanation of the important conceptual differences involved in the estimates. Many will doubt the possibility and usefulness of *a* model tax plan. But this series of publications is surely the answer to many prayers.

HAROLD M. GROVES.

University of Wisconsin.

Government and Economic Life; Development and Current Issues of American Public Policy. Vol. II. By LEVERETT S. LYON, VICTOR ABRAMSON, AND ASSOCIATES. (Washington, D. C.: The Brookings Institution. 1940. Pp. 521 to 1301. $3.50.)

The second volume of this excellent analytical reporting of American public policy and its problems is concerned with "Government and Special Treatment of Private Enterprise" (Part V), "Governmentally Organized Production" (Part VI), and "Conclusions." The first five chapters (XX to XXIV), dealing with foreign commerce and the tariff, public utilities, transportation, agriculture, and coal, are excellent. They are meaty, penetrating, enlightening, suggestive. The remaining chapters covering petroleum and natural gas, foods and drugs, the N.R.A., war-time control of industry, government as producer, relief, and social security, are good but not so thorough and not so satisfying.

The general approach is an historical and analytical résumé of the subject which comprehends the objects of governmental action, the law, the techniques—administrative machinery and procedure, and how these elements have changed. The current issues are then defined, trends forecast, and suggestions made toward a more effective public policy. There is ample documentation, but no systematic bibliography.

Take, for example, the chapter on transportation. It presents a résumé of "the internal improvement era" and then examines at length "the competitive era," analyzing public assistance to railroad construction, operating practices and polices under free competition, the agitation for control of monopoly power, the evolution of state regulation. A long section (69 pages) is then devoted to the significant title, "Federal Managerial

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Supervision: Railroads and Ancillary Agencies," and covers competitive relationships; construction, extension, and abandonment; quality of service; rates; judicial remedial control, positive administrative regulation, and authoritative managerial supervision; and supervision of general managerial policies. The next section includes highways, water, and air transport agencies.

Policies as expressed in law and practice; administrative machinery as it has evolved in the I. C. C.; administrative policies as they have grown out of the law and I. C. C. experience, are analyzed. The general conclusion is: "The concept of public managerial supervision has been gradually substituted for the original concept of public regulation which consisted mainly in the attempt to maintain competition and to control discriminatory practices. But this development has not been accompanied by the establishment of criteria or mechanisms capable of testing the quality of public performance, or of holding public agencies directly accountable for the results of their decisions." Each chapter is handled according to this general formula.

Many pregnant problems in law, policy, and practice are raised. On the tariff: "Even though in international law the technical right [unilateral determination of tariffs] exists, we may ask ourselves whether a nation, any more than an individual, can properly take the law as its sole standard of decency and morality in its relations with its neighbors." On utilities: "It is the rôle of positive regulatory action that it be substituted for the spur of competition in eliminating business timidity and sluggishness." "It must be apparent, however, that there is no hard and fast line separating regulation from management, and that if regulation is to be effective as a protective agent—and even more clearly if it is to be assigned a more positive, promotive rôle—no phase of utility operation can be deemed inherently immune to its processes." Nor does agriculture escape governmental managerial activities, even with technology underwriting the small units: "With the small-scale character of the operating unit thus confirmed and accentuated, government has gone farther and farther toward supplying larger overhead units of service, management, and economic organization."

The advantage of this kind of treatment is that each subject is developed with some degree of thoroughness. The peculiarities of the government's relation to utilities, transportation, agriculture, coal, or oil, can be adequately brought out. The problem of each is different; the history of government action in relation to each is different; and while there are certain common fundamentals, problems are still to a large extent individual and require handling suitable to their peculiarities.

This volume is a valuable compendium of factual information, logically organized around focal problem areas, intelligently analyzed in terms of

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public policy. It is not the final word, but it is the best thing in print covering such a wide field of government-economic relations.

HARVEY PINNEY.

New York University.

An Introduction to Public Opinion. By HARWOOD L. CHILDS (New York: John Wiley and Sons. 1940. Pp. 149. $1.75.)

The title of this book is somewhat misleading, since the volume is at the same time both more and less than an "introduction" to public opinion. *More*, because it goes beyond elementary concepts and comes to grips with important theoretical problems with which students of public opinion have wrestled for years. This is true of almost every subject Professor Childs discusses, whether it be the nature of public opinion and the public interest, propaganda and its relationship to dictatorship and democracy, public opinion polls, or "public opinion and social control." The reader, no matter how sophisticated or well informed he may be in this field, will find food for thought in every chapter.

On the other hand, the book is *less* than an "introduction" because it either neglects entirely or devotes merely passing reference to a host of problems which an *Introduction to Public Opinion* should bring to the student's attention. For example, no effort is made to acquaint the reader with the underlying psychological assumptions upon which various theories of public opinion rest. Nor does the author discuss in any systematic way the problems involved in the most effective utilization of agencies of mass impression—the school, the church, the press, radio, motion picture. Some attention is devoted to these matters in the chapters on propaganda, but the elementary information necessary to an understanding of the theoretical issues is for the most part taken for granted.

One reason for this is that "this volume is the outgrowth of a series of lectures constituting a part of a two-weeks' course on public relations organized by the American Council on Public Relations and presented to groups of business men" on the Pacific Coast during the summer of 1939. Its purpose, therefore, is the comparatively limited one of presenting a theory of public opinion to serve as a frame of reference for those engaged in public relations work and of giving some precision to such terms as public relations, public interest, and propaganda. Within this rather limited universe of discourse and within less than 150 pages, Professor Childs has crammed not only an amazing quantity of information but a high quality of analysis.

What impresses me even more than the author's pauciloquy is his unpretentious sanity. I find no trace of the ponderous pomposity that characterizes so many books on public opinion—nor any of the pyrotechnics that some writers use to blind the readers to their intellectual vapidity.

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Compare, for example, Floyd Allport's jaw-breaking definition of public opinion with the simple but intelligible definition offered by Professor Childs. Compare, too, the flamboyantly immodest claims made on behalf of public opinion polls by their sponsors, or the stupid denunciation of them by their popular critics, with the restrained, objective, and illuminating analysis of their strength and weaknesses, their uses and abuses, which Professor Childs presents in Chapter V. I find the discussion of propaganda inadequate, but convincing as far as it goes. It is characterized, as is the entire volume, by that scientific calm and caution so rarely found in current literature on the subject. The author views propaganda as neither a modern messiah nor a new witchcraft, but as a useful instrument of social control which, like other tools, may be used for good or evil ends.

I am impressed with the author's fine sense of social responsibility, which shines like a light through the whole book. Those who view public relations as a bag of tricks with which to refurbish tarnished reputations, defend by distortion and concealment rapacious business practices, or represent second-rate tap-dancers as Pavlowas, will find small comfort here.

Professor Childs has summarized his own discussion so admirably I cannot refrain from quotation in full: "(1) Public relations, in its broader meaning, refers to those aspects of our personal and corporate behavior which have social implications; (2) The basic problem of public relations is to bring these relations into conformity with the public interest—a public interest which is constantly being redefined by mass opinion; (3) We have not only the duty to conform to public opinion, but also the responsibility and the opportunity to mold and guide it; (4) In so doing, we need to be aware of the social significance of propaganda—the rôle to which it is assigned in democratic theory, and the conditions essential to its proper functioning; (5) In the final analysis, public opinion is what we, collectively, make it. Only as we seek in every way possible to improve its quality do we free ourselves from the dangers of conformity."

PETER H. ODEGARD.

Amherst College.

The Legal Status of the Negro. By CHARLES S. MANGUM, JR. (Chapel Hill: University of North Carolina Press. 1940. Pp. viii, 436. $5.00.)

The Negro in Congress, 1870-1901. By SAMUEL DENNY SMITH. (Chapel Hill: University of North Carolina Press. 1940. Pp. xiii, 160. $2.50.)

These two books add to the growing number of meritorious publications by the University of North Carolina Press on the subject of the Negro in American life. They represent an objective social approach to certain diffi-

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cult problems and issues which have arisen in American law, politics, and government since the Civil War.

In *The Legal Status of the Negro*, Charles S. Mangum, Jr., has made a wide and detailed exploration of federal and state statutes, court decisions, and administrative practices. His footnotes number 2,327, with many citations frequently appearing in one note. Law journals and sociological monographs have also been utilized. The study surveys the historical and geographical variations in racial discrimination, including the variation in answer to the question, "Who is a Negro?" The work is national in scope, although giving more attention to the South. Among the topics treated are civil rights, property rights, education, labor problems, Jim Crow laws, marriage, mob violence, jury service, and the voting franchise, with the latest developments in the status of the Southern white primaries.

One might venture, by way of criticism, to observe that Mr. Mangum's mine of information and explanation is rather skimpy on the immediate background of the Southern suffrage restrictions which came into effect between 1890 and 1910, in the wake of an agrarian crusade. Use of state constitutional proceedings and debates would have helped in this connection and would have shown that, to a large extent, the Negro voter became a political football in a contest between Bourbon and hillbilly whites and lost his vote, as eventually did many a white man. Fuller study on this point would have made it clear that in the Solid South registration qualifications have generally been the chief obstacles to Negro voting; and that, consequently, the poll tax requirement for voting has been rather superfluous as a check to Negroes, although serving effectively as a check to low-income whites, who have few registration difficulties. The author seems to assume and imply that more Negroes than whites have been affected by the poll-tax requirement. The reverse is true for recent years. However, he is most likely correct in saying that the South, meaning the voting white South, is still afraid of a manipulated Negro vote. For remedy he suggests an evolutionary middle course which would permit voting by well-educated Negroes. No one can quarrel with Mr. Mangum for not being moderate in presenting his significant facts.

In *The Negro in Congress, 1870-1901*, Mr. Smith describes and evaluates the careers of twenty Negro congressmen from the South and two Negro senators from Mississippi, who served during and immediately after the period of Reconstruction. He gives us a collection of vivid sidelights on these men, some of whom were of good character and some of whom had more formal education than several presidents, including Warren G. Harding. This study shows that the Negroes who served in Congress during these years were, on the whole, superior to those of their race who took part in Southern state and local government at the same

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time. Yet their achievements in Congress were distinctly limited, partly because of race consciousness and race friction and partly because they were victims of factionalism in Congress and in their own Republican party. Incidentally, not one of these Negroes was implicated in the Credit Mobilier scandals. The book is a readable and classified Who's Who of Negro congressmen for the period.

H. CLARENCE NIXON.
Vanderbilt University.

Cities in the Wilderness; The First Century of Urban Life in America, 1625-1742. By CARL BRIDENBAUGH. (New York: The Ronald Press Company. 1938. Pp. xiv, 500, and 16 illustrations. $5.00.)

Students of American municipal institutions need no longer bemoan the lack of adequate histories of municipal government and administration in the American colonial period. The volume herein reviewed, together with E. S. Griffith's *History of American City Government: The Colonial Period,* published in 1938, and varous special monographs and articles now available, combine to present a detailed and absorbing account of nearly all phases of municipal developments in the Thirteen Colonies. While Dean Griffith's volume consciously stresses legal and governmental areas, such as the acquisition and nature of municipal charters, governmental organization, the relations with the colonial authorities and governmental activities, that by Professor Bridenbaugh contrives to give an immense amount of information about early municipal life and public services, without once placing the government of cities at the center of interest. His index entries under "charter," "government," and similar terms of governmental importance, are surprisingly few, but those relating to the problems and activities of the municipal authorities are exceedingly numerous. They cover the whole range of municipal functions, such as police, fire protection, streets, water supply, sanitation, public health, social welfare, and education.

The author takes the five leading urban centers of the period (Boston, Newport, New York, Philadelphia, and Charles Town, South Carolina) and presents by periods, and by such special topics as economic life, social life and civic consciousness, the essential developments in each place, as it grew from a simple village to a substantial and complex urban community. Surprising indeed are the similarities between modern urban places and these early communities that were practically at the frontier. They quickly developed most of the "headaches" of modern city administration, and strove with considerable ingenuity to solve their most pressing problems. This work, in short, is indispensable to students of the development of municipal services and administration in the United States.

WILLIAM ANDERSON.
University of Minnesota.

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Problems in Service Levels; The Readjustment of Services and Areas in Local Government. By WILLIAM SEAL CARPENTER. (Princeton: Princeton University Press. 1940. Pp. viii, 234. $2.50.)

The vagueness of the title of this book necessitated the subtitle, which is itself not a very accurate description of the contents. There is little in the work on the readjustment or transfer of services between levels of local government. In the first chapter, thirty pages are devoted to a sketch of local government history in the colonial period, and four pages to the period from the Revolution to 1940. The chapter was written apparently without benefit of consultation with E. S. Griffith's *History of American City Government: The Colonial Period* (1938), and its relationship to the subjects of the other chapters is rather slight. Chapter II makes a substantial contribution through its collection of numerous examples of "Interjurisdictional Agreements" for the performance of local services. It includes, but does not sharply differentiate, cases of truly joint services, and those in which one local unit sells a service to another. Chapter III discusses numerous examples of attempts at "Consolidation and Annexation" of local areas, especially of counties and cities; while Chapter IV considers "Deorganization," or the dissolution of local units, particularly decadent rural townships. Chapter V, "Conclusions," considers mainly state measures for rehabilitating ailing local units, tax delinquency, and the New Jersey proposal for a new form of township organization in semi-urban, partly industrialized, areas.

Thus the work is really a collection of discussions of various problems in local government. It does not pretend to be, nor is it, an analytical, systematic, and definitive study of the whole problem of the interrelations of local units. It combines under its various topics a collection of examples and experiences, with pertinent comment.

At some points, however, the author must have been nodding over his work. The "natural local community" of colonial days probably did not exist, nor can "human greed" be considered an adequate explanation of why local units today are reluctant to consolidate (page 37). Space and time have surely not been annihilated (page 68), nor is it legally possible in all states to require consolidations and boundary adjustments "through special acts" (page 69). On page 34 the author says: "Population moved westward along horizontal lines." "Horizontal" is the antonym of "vertical." Did the author perhaps mean "along parallel lines"?

The annotated bibliography prepared by Lee Virginia Wingfield, while not exhaustive, is a very useful one for any person studying the areas and services of local government and their interrelations.

WILLIAM ANDERSON.

University of Minnesota.

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Jurisprudence. By Edgar Bodenheimer. (New York and London: McGraw-Hill Book Company. 1940. Pp. xiv, 357. $3.50.)

The title of this book is somewhat deceptive. Many topics that belong to the general field of jurisprudence have been deliberately excluded. There is no treatment of the basic technical concepts of legal science, as given in the works of Holland, Salmond, Hohfeld, and Kocourek. There is no discussion of the formal sources of the law, as offered by Gray. The nature of the judicial process, so enlighteningly dealt with by Cardozo, is touched upon only incidentally. Instead, the author has restricted his study to certain political, social, and philosophical problems connected with the institution of law. The most challenging chapters concern problems arising from "the power impulse." There are likewise sections on the law of nature, the law-shaping forces, and positivism in jurisprudence.

The author's thesis is that the function of law is to provide a mean between anarchy and despotism. Law is *necessarily* both private and public. To avoid anarchy, law limits the power of private individuals. To avoid despotism, it curbs the power of the government. Law connotes equality and not subjection; in its pure form, it is a relation between equals, not between a superior and an inferior. If the law establishes merely an equality of opportunity, as contrasted with an equality of condition, the law of natural selection will operate in the direction of creating new relations of power. Because law, on the whole, tends toward stagnation, it often breaks down in times of crisis and social change, making way for new power adjustments. In such times, law has a chance of preserving itself only by exhibiting great flexibility and adaptability. The more normal condition is for systems predominantly based on power to alternate with systems predominantly based on law. In the international field, the same contest between "power states" and "law states" is to be seen.

The chapter devoted to "law distinguished from other agencies of social control" seems too readily to confuse judges with law and administrators with power. One need not accept all of the nonsense written by so-called "realists" to appreciate the fact that even today judges frequently are relatively free agents. On the other hand, administrators are by no means above effective restraints of law, nor are they failing to contribute their share to its development. It may well be true that "the dangers of law are rigidity and stagnation; the dangers of administration are bureaucracy and autocracy" (p. 95). But could anything have been much more bureaucratic than the early chancery, or the medieval—and later—common law courts? Might not an administrative mechanism suffer from rigidity and stagnation? Perhaps it would have been wise to choose some word other than "administration," so as to have evaded confusing a form of action with a type of institution.

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The author refuses to swear allegiance to any single school of thought, insisting: "Only a merger of the methods used by the natural-law jurists with the methods employed by modern sociologists can bring about that rebirth of jurisprudence which seems so necessary in a time which questions the very foundations of the law" (p. 324). While conceding that a Nazi dictatorship is a logical application of the Austinian theory of sovereignty, he concludes that "the concept of sovereignty serves today a purpose similar to that of the beginning of its career. As it served then as a weapon against feudal anarchy, so it serves today as a weapon against syndicalist anarchy" (p. 70). He is convinced that "the twentieth century cannot afford the luxury of an individualistic system of law" (p. 162).

J. A. C. GRANT.

University of California, Los Angeles.

Law as Logic and Experience. BY MAX RADIN (New Haven: Yale University Press. 1940. Pp. ix, 171. $2.00.)

Weaving his way skillfully and brilliantly—yet sometimes a bit obscurely—back and forth between the poles of logic and experience, Max Radin, in this most recent addition to the Storrs lectures, explores the nature of law from a realistic point of view. His realism, unlike that of some, is broad enough to take account of the fact that the law cannot dispense with logic. The law must deal with human experience, which is largely non-logical and can never be directly grasped by logical methods; yet, he argues, it must be formulated in words (which are abstractions, symbols), and in generalizations.

Our technique of litigation is based upon the theory that the past can be reconstructed. But such reconstructions of the past as take place in the court room are so far from accurate that in many cases the law loses all touch with reality. This is especially true where the court attempts to apportion fault in a situation in which such fault as did exist was of a venial nature. In these cases, it is more important to find a solution that will reëstablish friendly relations between the parties than to pursue the impossible goal of establishing the "just" solution. It is better to consider the future than the past. This is the method of arbitration, of compromise or appeasement if you like, but certainly of statesmanship. Professor Radin contends that this technique can take the place of litigation generally "in all cases where the issue is not clearly between the abused and the abuser, the victim and the wrongdoer" (pp. 94–95). Courts already follow it in fact, although not in theory, in domestic relations cases, and, to a lesser but important degree, in many types of civil cases. This tendency should be recognized and extended.

When we come to the sphere of criminal law, however, arbitration cannot be tolerated. The function of law in this field is not so much the main-

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tenance of order as the preservation of liberty. Reason of state cannot be permitted to determine the question of whether a man is punishable. That way lies the Star Chamber, and—it might have been added—the Nazi system of criminal justice.

Professor Radin betrays no doubts as to the ability of courts to substitute arbitration for adjudication, in appropriate cases—to decide, that is to say, on the basis of social expediency. When it comes, however, to deciding cases which involve broad social and economic considerations, especially where the interests of large groups are involved, as in constitutional decisions—he does have his doubts. These questions are ill-adapted to settlement by courts. They should be handled by policy-forming machinery.

Finally, no technique of either logic or experience is enough. Good law "can be achieved only when just men perform the technical task of the law with the ancient formula before them . . . 'as humane men should act when they act humanely.' "

J. Roland Pennock.

Swarthmore College.

British Relations with China, 1931–1939. By Irving S. Friedman. (New York: International Secretariat, Institute of Pacific Relations Publications Office. 1940. Pp. xv, 255. $2.00.)

For the serious student of present-day developments in the Far East, no more thought-provoking work has appeared than Dr. Friedman's. A research associate of the International Secretariat of the I.P.R. and a member of the faculty of Brooklyn College, the author has done this study as "part of the documentation of an Inquiry organized by the Institute of Pacific Relations into the problems arising from the conflict in the Far East." Like the one under consideration, each volume in the series which has come to this reviewer's attention has proved a contribution of outstanding value and interest. Not based, for obvious reasons, on unpublished materials in the archives of the governments concerned, but making free and judicious use of such specialized sources of information as are contained in *The Times* (London), *The North China Herald* of Shanghai, *The Far Eastern Survey*, *Trans-Pacific* of Tokyo, *The Japan Chronicle*, *The Economist* (London), *The Oriental Economist* of Tokyo, the League of Nations *Official Journal*, the *Parliamentary Debates*, the China Maritime Customs publications, various year-books, Dr. Friedman's monograph cannot, as he himself points out, "be considered definitive." (Can *any* work dealing with contemporary life in its social, political, and economic aspects be "definitive"?) It may be suggested, nevertheless, that this study is unlikely to be superseded for a goodly number of years to come.

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In a brief but competent Introduction, the author paints with bold strokes the background picture of Anglo-Chinese relations prior to the eruption known as the "Mukden incident" of September, 1931. The rôle of England in nineteenth-century China—and one of the basic aspects of the significance of the British Empire's contemporary decline of influence in the Far East—is defined in the statement: "On the one hand, Britain took the lead in opening up the China market and in building up the elaborate system of treaty rights and privileges, and on the other, she was quite content [in admirable contradistinction to Japan in the twentieth century] to allow other nations, by means of the most-favored-nation clause, to share in these gains."

Equally competent is Dr. Friedman's summary of the Manchurian crisis of the years 1931–33. Here is made clear the fact that Great Britain, under the rule of the Conservative party, pursued a policy "on the whole favorable to Japan rather than to China," but that she "acted more vigorously and promptly when Shanghai, the center of British interests, was attacked than when Manchuria, in which she had substantial but relatively less important interests, was invaded."

How peculiarly "incidental" was the "incident" at Lukouchiao on the night of July 7, 1939, and the incidents and "incidents" which ensued therefrom, is incidentally made apparent in the remark of the Japanese war minister ("The army will take no action at once, but, when the time comes, it will not hesitate"), and in the "statement" of General Hayao Tada, both consequent upon the arrival of Sir Frederick Leith-Ross in Shanghai and the contemporaneous announcement by the Chinese government of its decrees dealing with nationalization of silver and currency stabilization. Then follows immediately one of the clearest, shortest, and most irrefutable accounts that has yet appeared of the Nipponese smuggling campaign in North China in 1935–37, a campaign as efficient as it was unprecedented and dishonorable to the people and state of Japan as a whole.

From 1933 to 1939, the evolution of Britain's policy and actions in, and with reference to, China are presented in detail step by step with the tracing of Dai Nippon's advance southward and westward at the ever-increasing cost of British as well as of Chinese interests. With England engrossed in European affairs and driven willy-nilly to follow a policy of appeasement on the Continent, it is not surprising that Sir John Simon's roars should have become ever more and more mouse-like in their tone, and that a basically similar policy should have been followed more or less alternatively with respect to China and Japan. Be it noted, however, that when China was aided, the British position in that country was strengthened; when Japan was conciliated, British, as well as other foreign, interests, and those of China as well, were sacrificed. Whether Dr. Fried-

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man's story brings glee or gloom to his readers, most will agree that it is a story well told.

HARLEY FARNSWORTH MACNAIR.

University of Chicago.

The German People versus Hitler. By HEINRICH FRAENKEL. (London: George Allen and Unwin Ltd. 1940. Pp. 370. 10s. 6d.)

The author of this useful volume is at present a member of the German refugee colony in London, and is known to many readers of the magazine *Time and Tide* under his *nom de plume* "Cinna." He is obviously thoroughly acquainted with the developments of recent years in Germany, and his book gives evidence of careful use of a great mass of the fugitive literature on Nazism.

One of the author's principal objects in writing the volume is to attempt to destroy "the fallacies rampant throughout the civilized world regarding the Third Reich," particularly "the fallacy" of identifying "Germany and the Third Reich, Germanism and Nazism, the German people and the Nazi party." The author points out that many of the arguments about Germany's future are futile because they are based on individual hopes and wishful thinking rather than on an exact knowledge of actual conditions within Germany. Clearly, Herr Fraenkel has an extensive knowledge of conditions in Germany. But he, too, indulges in wishful thinking, and, as a German, endeavors to put the German people in as good a light as possible. This is a natural impulse and is not a fatal defect of the book. A reviewer, nevertheless, may properly comment that the German people permitted the Hitler régime to come into power, and no amount of blame placed on other shoulders should lead one to forget the responsibility of Germany itself for its present cultural strangulation.

The book is of value primarily because of its systematic, if somewhat labored and disconnected, treatment of all the avenues of opposition against the Nazis in Germany. In portraying the opposition of labor, of the church, of students, of women, of peasants, of shopkeepers, the author makes a contribution of some importance to an understanding of Germany under Nazi rule. Much of the material used is *ex parte* testimony collected by the underground movement, and only a portion of it is of documentary value. But the total result seems to the reviewer to give an adequate picture of the uglier side of the Third Reich, and thus to round out our knowledge of Hitler's system.

Nevertheless one gets too strong an impression from reading the book that all groups are against Hitler. One wonders, therefore, how the régime has lasted nearly eight years and how the government was able to get ready for a war which, up to this point, has been highly successful. The author does qualify his main points, but he still leaves one with the feeling

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that Hitlerism is not supported by the German people, that it is only a passing phase of German existence, and that it will not last. The German problem, the author concludes, can be solved only by German hands; and despite the difficulties caused by the war, he feels that the task of ridding Germany of the Hitler incubus will be accomplished relatively soon by the German people themselves.

There are many observations in the book with which any informed student of Germany could take exception (see pages 21–22, 27, 38). But these questionable points are balanced by many very sound comments about the German people (see pages 88, 114, 216). Altogether, the volume is useful because it presents us with a systematic treatment of what the German people are doing to undermine the Hitler régime. If their heroic struggle succeeds, and if later generations of Germans do not embrace another Hitler who might develop another "dagger thrust legend," then the world will be better. We shall see!

JAMES K. POLLOCK.

University of Michigan.

State of the Masses; The Threat of the Classless Society. By EMIL LEDERER. (New York: W. W. Norton and Company. Pp. 245. $2.50.)

This posthumous study by the first dean of the Graduate Faculty of the New School for Social Research is not just another book in the flood of publications on modern dictatorship. It throws a new light on this most disturbing event by penetrating its "sociological nature" in a striking thesis: Modern dictatorship is the institutionalization of amorphous masses. It is the substitution of crowds for society. Thus it represents a unique phenomenon, decisively new and the greatest challenge to social order. "The destruction of all social associations was even more important than the suppression of political parties. The result is a dissolution of the whole fabric of society . . . . For the first time mankind must witness not the domination but the destruction of society." The very aim and essence of the revolutionary post-war movements is the pulverization of all autonomous groups, even the family, into an inarticulate crowd which, permanently in need of a tyrannical leader, kept together only if moved and satisfied emotionally, must therefore be "dynamic" and cannot be appeased.

Such an analysis of the "state of the masses" no doubt points at an aspect which has been almost completely overlooked by Fascists and anti-Fascists alike. Because, in spite of LeBon, Graham Wallas, Sighele, Ortega y Gasset, and others, the predominant concept of the masses is still a perception of the "rational masses." The sudden outbreak of emotional crowds in post-World War politics found statesmen and social scientists equally unprepared for the onslaught.

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Lederer views, in the transformation of spontaneous social groups of a pluralistic society to the totalitarian "mass-state," the real "background of Fascism." He proceeds to test the fruitfulness of this formula in a pointed characterization of Fascist Italy and Nazi Germany. It is this emergence of the mass-state that further leads the author to a reëxamination of ideals of "society and socialism" and to a rejection of the Marxian myth of a classless society hitherto cherished by himself. Now the free interplay of spontaneous and responsible group associations appears to him a necessary precondition for social order—in fact, its basis, equally denied by the Communist and the Fascist state. "We have to choose between the mass state and society, between enslavement and liberty." Such is the *credo* of a great liberal socialist. Yet just as he substitutes the balancing powers of clashing classes as guarantors of freedom for the classical liberal belief in a preordained social harmony of rational human beings, he outgrows nineteenth century socialism and strives to renew its challenge on a twentieth-century plane.

The study reflects all the great qualities of Emil Lederer: his life-long blending of theory and practice, his rare combination of dispassionate scholarship and intellectual courage, his keen sense of basic issues and subtle differentiations at the same time, a mastery of factual material paired with an ever fresh and thought-provoking vista. It is, above all, this penetrating vision of "the threat of the classless society" which represents the greatest value of his last study. No doubt, such an emphasis on the "amorphous masses" underscores other structural elements of modern dictatorships. Only incidentally does Lederer see the importance of the lieutenants, the party, and the whole machinery of modern autocracies, which gives them a quasi-institutional character. This petrification of the new autocratic régimes not only promises their survival beyond the dictator's life, but also redefines in turn the rôle of the masses. Moreover, a conclusive study of the significance of these amorphous masses should consider to what extent their appearance on the political scene as the predominant power is the result of the disintegrating forces of industrial society; in this respect, Fascism itself only focused upon and accentuated a much deeper social crisis. Such a view obviously shows that a blueprint of a future order cannot simply resort to a pre-dictatorial stratified society. How to restore an aroused and dynamic crowd to balanced and coöperative spirit is the most crucial question, for which Lederer's analysis does not present any answer. Yet, like other recent books under the Norton imprint, such as Friedrich's *Foreign Policy in the Making* and Pendleton Herring's *Politics of Democracy*, this study does not pretend to give a comprehensive answer. It spades new ground instead, attacks a badly neglected field of research, and raises challenging questions which should have been raised long ago.

SIGMUND NEUMANN.

Wesleyan University.

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From Marx to Stalin. By James E. LeRossignol. (New York: Thomas Y. Crowell Company. 1940. Pp. x, 442. $3.00.)

This volume is apparently designed as a text-book for students previously unacquainted with Marxism; it contains no new contributions to the subject that might attract the already-sophisticated reader. Introductory chapters on the sources and varieties of socialist thought, on socialist strategy and tactics, and on the life and personality of Marx are followed by a detailed analysis of the doctrines of Marx and Engels, occupying most of the space. Concluding chapters introduce some comment on Leninism and on the Soviet Union and the Comintern. The names of Bebel, Bernstein, Kautsky, Plekhanov, and of contemporary Marxist and non-Marxist socialists, are scattered through the text in a way that must bewilder an uninitiated reader; the author uses their remarks indiscriminately to elucidate or criticize the doctrines of Marx and Engels; but, despite the promise of the title, he never focusses attention on the distinct schools of Marxist interpretation which have appeared since the days of the master. Trotskyism goes unnoticed.

The best part of the book is the careful presentation and criticism of Marxian economics. Dialectical materialism is also adequately treated. Professor LeRossignol is less successful in analyzing the political concepts of Marxism. The Marxist theory of war is never mentioned; the theory of the state is examined only superficially. The chapter on the strategy and tactics of socialism, strangely placed near the beginning of the book, is inadequate: attitudes toward nationalism and imperialism are not discussed; Professor LeRossignol makes no distinction between the type of class-collaboration suggested by Marx, the boring-from-within tactic of the 1920's, and the Popular-Frontism that followed the Dimitroff report (pp. 56, 63–68); he does not develop the historical setting of socialist strategy. The discussion (pp. 324–327) of the relation between Leninism and Marxism uncritically accepts Stalin's testimony and ignores the vital question of whether the present dictatorship is an accident of place and personalities, the consequence of Leninism, or implicit in Marxism itself. Professor LeRossignol finds the Russian revolution "something of a mystery" (p. 111), and leaves it so. Chapter XXII, "Could It Happen Here?," reveals no use of the well-known studies of working-class psychology and of the general theory of revolutions.

The book suffers from insufficient background material. A definition of capitalism would certainly have been useful. The debts of Marx to Hegel and Feuerbach, to the classical economists and the Utopians, are presented satisfactorily, but one regrets the absence of a general analysis of the place of Marxian thought in its broader historical setting, and, in particular, of its relations with liberalism, anarchism, and Social Democracy. By confining himself mainly to English, American, and some Rus-

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sian data, Professor LeRossignol has unfortunately missed opportunities to criticize Marxism in the light of Continental European experience. He gives very little attention to fascism, and it is surprising to find that he has accepted the naïve communist interpretation of fascism as essentially capitalist reaction (pp. 44–50).

The general viewpoint is one of optimistic defense of capitalism (cf. especially pp. 218–226, 346), but Professor LeRossignol has made a conscientious and usually successful attempt to analyze his material objectively. There is an impressive bibliography, and a generous offering of quotations from the less well-known, as well as the familiar, works of Marx and Engels.

JOHN D. LEWIS.

Oberlin College.

The Irrepressible Democrat, Roger Williams. BY SAMUEL HUGH BROCKUNIER. (New York: The Ronald Press Company. 1940. Pp. xii, 305. $4.00.)

Biographies of Roger Williams have in the past been concerned too largely with blame or praise, even when they have not been special pleading. In this respect, Mr. Brockunier's book is a notable exception. It is true that the author shares the liberal viewpoint, and is sympathetic toward his subject, but he does not glorify him. Instead, with very careful scholarship, he shows his relation to the general movement of Protestant reform and to the political issues in England, in the Colonies, and between the two during his life. With considerable art in the early part of the work, he somewhat subordinates Williams, and later allows him to become increasingly dominant as his life progresses and his impact upon colonial politics increases. Especially, it becomes clear that, while Williams in common with other reformers, tended to make issues through undue nicety of conscience, he progressively came to grips with real problems as he turned to the responsibilities inherent in creating free institutions, while many of his opponents, commencing to identify religion with their own power and to make their governments the servants of private economic interest, turned tenderness of conscience into heresy hunting, and established rigid codes which gave sanction to persecution and defense to their own régimes.

For the political scientist, there are certain points of special significance in this work. Though Brockunier perhaps under-emphasizes the systematic character of Williams' thinking, he reinforces Ernst's earlier insistence that Williams' philosophy is much more than a defense of the free conscience or of the inquiring mind, and that it embraces doctrines of free citizenship with duties, as well as rights, and the conviction that men

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ought to have an interest in the community that they may be genuine citizens: Williams consistently urged the need to divide land and not to form great estates. Brockunier also discusses in considerable detail Williams' insistence on the evils of imperialism and its sharp practices, as illustrated by Puritan dealings with the Indian, while he praises the sagacity of Williams' own honest dealings, and shows the consequent effectiveness of his service as a peacemaker. Perhaps what he does not sufficiently stress, though it is implicit in his discussion, is that, given unequal forces and a grim determination on one side to follow the imperialist path by whatever means, the peacemaker, however right, is powerless unless he have effective force at his command; and may, indeed, as a statesman, find his state the very battleground of the aggressor and the victim.

On the other hand, Brockunier does deal with extraordinary balance with the issues that arose between Williams and those who were concerned to turn freedom into anarchy, namely, the Quakers. The Quakers of that day were radical and lacked, almost as a matter of principle, that deference to the social niceties that Williams, as a cultivated man, appreciated. This in itself was a basis for prejudice and misunderstanding. Yet there was also involved the very central problem of political science: the nature of obligation. The Quakers, like Jehovah's witnesses today, discovered in Christianity a basis for rejecting external compulsions, and tended to secular anarchism; while Williams, finding by experience that excessive decentralization under popular government might lead to anarchy, had to insist that, though the spheres of religion and politics were to be kept emphatically separate, with different sanctions, nevertheless religion could not be a guise for the refusal to perform duties as members of a community or to interpret freedom as a permission to be in society but not of it. For awhile, indeed, first owing to his absence in England and then because of his unwillingness to use compulsion, anarchy was a genuine threat. Nevertheless, he found it possible by reorganization with greater power in the central government, and by the mere threat of its use, together with his own great arts of persuasion and the arrangement of decent compromise, to preserve the essential democratic features of his régime without any notable use of force. The whole issue is, however, a profound commentary on the need and duty of government to govern and on the limits of reliance on good will alone. Only on one point in this issue does the author, in the reviewer's judgment, go somewhat astray, namely, in his contrast between Williams' rationalism and Quaker mysticism. Williams was a rationalist, and had much in common with the *philosophes* of a later age. But he was not at one with them: his very Seekerism denies that. Rather, he insisted that a genuine intimation of deity must be consonant with a rational view of secular welfare, and not lead to non-social or anti-social behavior. Insights beyond proof, and not apprehended by reason,

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were essential: it was the insistence by contemporary Quakers that visions by the inner light were not to be tested that he deplored. The point is important, not only for the understanding of Williams' whole teaching, but because it is so frequently at the bottom of issues between individual conscience and the state.

Beyond all this, the biography deserves criticism for the lack of an effective conclusion. It does not attempt a careful summary of Williams' significance for his time. It does not trace precisely the scope and nature of his influence. It does not explore the possible inferences from his philosophy or work for contemporary thought and issues. Rather, under the title "Williams and the American Tradition" it informs us of early posthumous neglect and misinterpretation and of subsequent restoration to fame, until at last Williams has become a lesser hero of American history. Even in doing this, however, Mr. Brockunier gives a cavalier outline, rather than a careful inquiry, into the reasons for the change; and in a book generally so excellent this failure is as regrettable as it is glaring.

THOMAS I. COOK.

University of Washington.

Contemporary Economic Systems. BY EARL R. SIKES (New York: Henry Holt and Company. 1940. Pp. xiv, 690. $3.00.)

Economic Warfare. BY PAUL EINZIG. (New York: The Macmillan Company. 1940. Pp. x, 151. $1.90.)

Under the impact of *laissez-faire* in the nineteenth century, the alleged or real separation of economics from politics has found its expression in the sharp and often sterile delimitation of the boundaries between economic science and political science, thus extinguishing their common modern origin in the science of political economy. Napoleon's dictum of politics as fate and Rathenau's contrary opinion of economics as the destiny of nations mark the changes of Western social thought in the last hundred years. Today we are living again in an epoch in which the increasing integration of politics and economics in totalitarian as well as in democratic nations is bound to reëstablish the integral common foundations of a new science of political economy dealing with the living issues of our twentieth century. For that reason, *Contemporary Economic Systems*, by Professor Sikes, published as the first volume of the new "American Business and Economic Series" under the general editorship of Dean Herluf V. Olsen of Dartmouth College, ought to prove extraordinarily valuable to political scientists. So far we have had only Loucks and Hoot's *Comparative Economic Systems* as a guide through the competing contemporary economic systems and their political implications. The volume by

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Professor Sikes is not only briefer and more concise in its analysis, but in addition takes cognizance of the more recent developments in the theory and practice of economic issues and institutions.

In the first part of his book, Professor Sikes discusses the problem of the fundamental norms, objectives, and values in the economic organization of a national community; more and more economists are impelled to admit this methodologically questionable subject into the realm of legitimate economic study, not necessarily in terms of value judgments, but at least under the perspective of given data without which a genuine understanding of the working of economic institutions becomes exceedingly difficult. This examination of the inarticulate and implicit assumptions of economic activity in a given society is precisely the kind of study that commands equally the attention of the economist and of the political scientist, and it is therefore to be regretted that Professor Sikes has allotted a relatively short section of his book to an analysis of these basic problems.

The second part of the book deals with the "background and theoretical development of radical movements" (pp. 33–238). The author deals here with utopian socialism, Marxism, Fabian socialism, anarchism, syndicalism, and communism; in addition, Professor Sikes also examines the fate of these movements in some major countries, such as Great Britain, Germany, and the United States. The sections on Marxism and Fabianism seem to be most illuminating, while the author's discussion of syndicalism and communism are rather disappointing. Going into the fate of the anti-capitalist movements in the major Western countries, Professor Sikes fails to explain adequately why the British labor movement is today the only one in Europe that is still vital and strong; a closer inquiry into the idyllic united front period of 1934–1939 would have shown that the British Labor party was the only substantial progressive force anywhere that mistrusted from the beginning any alliance with the Stalinists, whereas practically all the socialists and progressives in Continental Europe and the United States accepted the new Moscow line hook, line, and sinker. In analyzing the development of socialism and communism in the United States since the war (pp. 215–238), the author comes to the conclusion that "the middle class ideology has maintained its predominance over too large a part of the nation's consciousness for socialism or communism to secure much support among the masses" (p. 236); it is hoped that in a future edition the author will further elaborate this psychological approach to the problem of class structure.

In the third part, Professor Sikes deals with Russian communism in practice (pp. 241–374). Here the author presents material that has been covered often, but nevertheless manages to introduce a note of well-balanced detachment that is refreshing. He comes to the conclusion that

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a fair evaluation of the record of the Soviet Union must always take into account that the successes and failures of the Union are due rather to the existing political system of totalitarian rule than to economic collectivism, and that "the régime must be judged by its effect on the welfare of the citizens of the Soviet Union and not by the standards which American citizens would establish" (p. 373). Even the original equality of early Bolshevik rule is now increasingly undermined by the emergence of the new political class of party and state officials and red army officers, because this new political class tends to acquire more and more social and economic privileges.

In the fourth and fifth parts of the book, Professor Sikes deals with the problem of economic planning under Nazism, Fascism, and liberal capitalism. In contrast to Guillebaud and other recent students of German economics, the author is aware that an inquiry into the nature of Fascist economics yields no significant results unless the framework of ruthless totalitarian politics and the objective of war and imperial aggrandizement are understood as the most important features of the whole economic system. An analysis of the relative development of the consumption goods and capital goods industries, as well as of the labor force employed in welfare economics as compared to that in the economics of the slave state (armaments, party and state bureaucracy, political police, etc.), shows the empirical validity of the above contention.

The indefatigable Dr. Einzig has given us in *Economic Warfare* his most recent volume (most recent, at least, at the time of writing this review) on economic problems that are of immediate interest to the general reader. The present book is largely based, as the author states in the preface (p. v), on his earlier *Economic Problems of the New War*, published at the beginning of 1939. Apart from the older studies of Cannan, Pigou, and Possony, and the recent essay of Mr. Keynes, Dr. Einzig's present brief volume is the only up-to-date and general study of the subject. The long, and for a century almost unbroken, tradition of liberal economics and liberal economic writing has been responsible for the relative lack of attention given to the problems of war economics; in the last few years Germany has been the only country in which more than adequate attention was given to these issues in theory and practice, since the transformation of German economy into a *Wehrwirtschaft* has also produced the accompanying change of economic science into a *Kriegswirtschaftslehre*. In the first four chapters of his book, Dr. Einzig concentrates primarily on the economic lessons of the last war, and he notes especially how a repetition of the "business as usual" attitude would be of disastrous consequences in the present struggle of totalitarian dimensions politically, militarily, and economically. In the final six chapters, the author examines in particular the war economies of France, Germany, Italy, Great Britain,

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Japan, and the United States. His opinion of the resources of the axis powers is not at all favorable; while there will be general agreement about the economic weaknesses of Italy, many will question Dr. Einzig's view concerning Germany: that while "admittedly the Nazi economic and financial system has been elaborated with considerable skill and has worked on the whole satisfactorily in time of peace, it is, however, a house of cards which is hardly likely to remain intact amidst the shocks produced by the war" (p. 121). On the other hand, the author shows remarkable foresight in predicting that the Soviet Union would be unable, for reasons of its own needs, lack of adequate communications, etc., to aid Germany economically to any considerable extent. In the last chapter (pp. 148–151), Dr. Einzig sums up his argument and adduces twenty-six reasons why Britain will win. As far as Britain is concerned, one good reason would be enough!

WILLIAM EBENSTEIN.

University of Wisconsin.

Productivity, Wages, and National Income. By SPURGEON BELL. (Washington: The Brookings Institution. 1940. Pp. xii, 344. $3.00.)

National Welfare and Business Stability. By JOHN BAUER. (New York and London: Harper and Brothers. 1940. Pp. xi, 182. $2.00.)

Mr. Bell's book is the sixth in the Brookings Institution's competent series of studies dealing generally with the distribution of wealth and income in relation to economic progress. The study consists largely of a statistical analysis of the distribution of national income derived from the major manufacturing, mineral, and public utility industries from 1919 through 1938. To prevent the larger implications of his study from being completely obscured, Mr. Bell integrates and interprets his findings in a concluding chapter which is the most valuable in the entire book. During the twenty-year period from 1919 through 1938, productivity in the major groups manifested a remarkable increase, but the volume of production did not increase proportionally, with the result that the volume of employment showed a material decline. Hourly wages increased during the period, but weekly wages decreased in such a way as to indicate that the gains to labor from increased productivity were in the main in greater leisure. Earnings on capital investment declined, but consumers derived important gains. The ultimate conclusion, therefore, is that the interests of all groups can be advanced by bringing production in line with productivity. This, indeed, along with the distribution of the products of industry operating at full productive capacity, is the central problem of industrial and political statesmanship, and it is to be regretted that Mr.

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Bell did not improve his study by outlining the rôle of government and industry in the solution of this problem.

Mr. Bauer's book is in no sense an anatomical study of national income, but rather an outline of the functions of government with respect to national welfare and economic stability, with emphasis upon a permanent program of public spending as a means of maintaining business stability and eliminating unemployment. The author presents cogent arguments for the creation of a "National Development Authority" which, in addition to absorbing the functions of the present Federal Works Agency, should be charged with the administration of a more consistent spending program. Left-wing critics of the New Deal will take comfort in Mr. Bauer's criticism of it for precipitating the latest recession by curtailing governmental spending, but rabid critics of the New Deal will find neither his criticisms of present policy nor his proposals for the future palatable. Mr. Bauer is to be commended highly for the effective manner in which he has dispelled some of the fogs and mists of the economics of reaction. His discussion of taxes as nothing more than a form of price not only is interesting but also is in line with the best economic thought, and the entire book is a sober, clear, and stimulating presentation of a subject which produces violent emotional clashes.

ROBERT J. HARRIS.

Louisiana State University.

BRIEFER NOTICES

AMERICAN GOVERNMENT AND POLITICS

So long as private business fails to resume the initiative in bringing about full employment and economic expansion, government will be compelled to take its place, and public spending is the best tactical means at its disposal, according to Arthur E. Burns and Donald S. Watson in *Government Spending and Economic Expansion* (American Council on Public Affairs, pp. vi, 176, $2.50). The federal government reluctantly groped its way into deficit spending under the pressure of great events and powerful forces. Four phases are distinguishable: (1) the timing of normal public works to fit in with the fluctuations between prosperity and depression; (2) pump-priming; (3) the steadier, more continuous "compensatory spending" through which government makes up permanent deficiencies in private investment and business activity; and finally (4) "secular spending," a permanent, stable, high level of public spending based upon the assumption that private business is no longer capable of supplying the motive force for economic expansion. The New Deal recognized the necessity of taking the initiative, but failed to spend enough to be effective. Those alarmed by this course of events may take comfort in

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the authors' assurance that "so long as expansion is taking place, most problems can be solved"; although the authors do not explain how, if expansion is such an ideal solvent, the private economic expansion of the 1920's bequeathed so many unsolved problems to the 1930's. At any rate, now that government dominates the banks and can act independently in finance, budget deficits and rising public debt can go on "indefinitely." They are "minor problems," merely involving bookkeeping transfers on the public ledger after an issue of greenbacks or a "capital levy." It is all so simple and so soothing after ten years of depression struggle and pain!—GEORGE H. E. SMITH.

The Triumph of American Capitalism (Simon and Schuster, pp. 460, $3.00), by Louis M. Hacker, is a story in three parts. The first deals with the European antecedents of our economic thinking and practice; the second, with the victory of American mercantile capitalism in the Revolution; and the third, with the great expansion of American industry between 1860 and 1900. While the book is definitely not an account of the achievements of particular individuals, it is rich in its references to the way in which certain capitalists have influenced the development of our economic life. Written somewhat in the style of *The Rise of American Civilization*, it commends itself to the general reader by the omission of all footnotes and citations. An appropriate list of the authorities cited in the text is, however, published as an appendix. An interesting change of style is to be noted between the two introductory chapters and the main body of the text. Throughout the former, Professor Hacker employs the first person; thereafter he avoids expression of personal opinion until he reaches the concluding chapter, wherein he once more uses such expressions as, "the capitalism I have described," and "I am not really fearful of American state capitalism," and "I firmly believe," etc. Professor Hacker has been unfortunate in using certain words with meanings and spellings now obsolete. Certainly no point is gained in talking about "proprieties" (p. 108) in Maryland and North Carolina, when the idea to be conveyed is the lands of the proprietors. The word "propriety" with that real estate connotation has been obsolete in America for over one hundred years. Again, why refer to a preacher as the "goodman" (p. 123), which is definitely an archaism? And why refer to quitrents that were "payed" (p. 116)? The question of whether American capitalism in the period under review was a success is answered affirmatively by the author in the following significant sentence in his concluding chapter: "The capitalism that settled America in terms of the active faith of Protestant Puritanism; that defied the authority of the English Mercantile State; that penetrated the western wilderness and established in it free enterprise and the free man who knew how to put the public official in his place; that overthrew

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the economic and political pretensions of the slave power; that conquered (wastefully, it is true) and harnessed the natural resources of a great land, and filled that land with efficient agencies for turning out consumer goods in a vast flood: that capitalism was a success."—JOHN G. HERNDON.

Our Constitution and Government (U. S. Government Printing Office, pp. x, 400, $0.50), by Cathryn Seckler-Hudson, marks a notable departure from the general technique of citizenship-training for aliens. The outstanding new features in Mrs. Seckler-Hudson's book are drill in the meaning of words commonly used in connection with community-life of every sort, contained in a glossary at the end of each chapter; and an endeavor on the part of the author to make the alien community-conscious as a member of the various social, political, and economic groups in national and local life. This is not merely a study of the essential structural facts of American national government, but of state and local governments as well. The student is left with the realization that his membership in the community groups is of extreme importance, not only to himself, but also to the groups of which he is a member. The work stresses and explains, also, the rights and privileges, as well as the obligations, of citizenship under the United States Constitution, and gives a brief view of the historical background of American institutions. The book is full of graphs and charts—sixty in all—which explain the operation of every phase of American government, national, state, and local. It stresses the manner in which government assists various classes of our people in attaining the enjoyments of the good life offered under a democratic form of government. A summary at the end of each chapter places the significant facts before the student, and this is followed by a set of exercises, with simple questions based upon the text. The language is within the ready comprehension of the most elementary reader of English. This work is a definite contribution in the field of civic training.—ELIZABETH A. WEBER.

Tennessee; A Political Study (University of Tennessee Press, pp. xii, 353, $2.00), by William H. Combs and William E. Cole, and *Municipal Government and Administration in Mississippi* (Mississippi State Planning Commission, pp. 134, on request), by M. H. Satterfield and Hugh W. Urban, will be of particular value to students of state and local government as sources of detailed information regarding state and local government and administration in Tennessee, and municipal government and administration in Mississippi. Both deal with the structure and function of the respective governments, presenting explanatory data and current problems of improving administrative management. Of special merit are the tables and charts illustrating specific problems of structure and administration. Combs and Cole clarify many of the questions which have

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been inadequately presented in the past, and which have accounted for misconceptions concerning Tennessee's governmental system as they appear in general textbooks. For example, the character and function of the county court system is clearly explained; likewise the several reorganization plans are set forth in detail, and the emerging problems presented by the state's four metropolitan areas are examined in some detail. The volume should be of much value both to scholars in the field and to students of government and citizenship in Tennessee. Satterfield and Urban, through the resources of the Tennessee Valley Authority, have been enabled to prepare an excellent study of municipal government and administration in forty-eight Mississippi municipalities, hitherto impossible because of inadequate municipal reports. This study, aside from its local interest, should be of importance to the profession because of the insight given into the municipal problems of a state whose municipalities are primarily of the smaller type, with administrative functions necessarily performed by officials and employees serving part-time or combining several activities to round out a single position.—DAVID W. KNEPPER.

In *City Manager Government in Ames* [Iowa] (Chicago: Public Administration Service, pp. iv, 22), Dr. John A. Vieg endeavors to prove that although the city manager plan in Ames represents many departures from the essential principles of city manager government, and although it may not satisfy the experts, it does satisfy the people of Ames. Written in a sprightly style, the monograph describes how a few "engineering" departments of the city were consolidated under a city manager of engineering, the other administrative departments, like police, finance, law, parks, and recreation continuing under the control either of the electorate or of the mayor and council. The fact that Ames, in Dr. Vieg's opinion, enjoys efficient and economical administration is not because of any slavish adherence to "essential principles," but because of the spirit of comradeship existing between city officials. Regardless of their legal independence of each other, they surmount all jurisdictional dividing lines by the simple fact that they know each other and like each other. Since the appearance of this monograph, there have appeared in the Ames press ugly rumors of "irrgularities of disbursements of the city street department funds," including allegations of pay-roll padding. The currency of these newspaper stories, supplemented by an open letter from the mayor, Professor Frank D. Paine of Iowa State College, in which he insists that "we are determined to carry on every investigation necessary in a way that will be thorough. . . , " seems to afford an excellent opportunity to determine whether, in one American city at least, the essentials of city manager government can be violated with impunity.—GEDDES W. RUTHERFORD.

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In a second volume, entitled *A History of Chicago: From Town to City* (Alfred A. Knopf, pp. xiii, 547, $5.00), Professor Bessie L. Pierce carries her detailed and well documented study of Chicago through the years 1848–1871. At the beginning of this period, Chicago had only approximately thirty thousand inhabitants, but in the short space of two decades it took its place among the metropolitan centers, with almost three hundred thousand people. Amid discussions of immigrants, transportation, industry, religion, labor, etc., the author finds space for three chapters—"The Mold of Politics, 1848–1860," "War and Its Aftermath, 1860–1871," and "The Form and Function of Government"—which should be of special interest to political scientists. In the first two, Miss Pierce traces the influence of national and state events on Chicago, pointing out that citizens "turned their faces from the local scene to the great national struggle." All in all, the course of political events during these years in Chicago was strikingly like that to be observed in most other large cities of the United States. Graft was rampant—indeed "so common was the betrayal of trust . . . that one city collector's 'spotless record' evoked astonished comment in the press." Legislative interference in local affairs was so much the rule that it seemed "to Chicagoans at times that the legislature was acting as a superior municipal council." Above all, the city was enlarging its sphere of activity—giving heed to police and fire protection, streets, a water supply, sanitation, parks, etc., as never before; incidentally, this enormously added to the complexity of its financial problems.—HAROLD ZINK.

It is a pleasure to welcome to an ever-growing list of worth-while volumes on labor problems Walter Galenson's *Rival Unionism in the United States* (American Council on Public Affairs, pp. 317, $3.25, cloth, and $2.50, paper). It is a highly creditable work. In style, it is succinct, yet not superficial; precise, yet not academic; clear and logical, yet not abstract. No other writer has entered so completely, so intimately, and so impartially into the subject. A mine of information has been methodically and patiently assembled, skilfully presented and plentifully footnoted, so that the book can be read and re-read with profit and admiration. It is so far superior to some recent volumes by academic people who apparently are incapable of achieving any other distinction than that of undiscriminating acceptance of one point of view or another, that this work could well be taken as a model of disinterestedness. Mr. Galenson has no cause to promote, apparently, except the cause of fair inquiry, and no interest save that of careful analysis. The book is also well rounded. The sources are complete and rich, embracing legal findings of fact, affidavits of parties and witnesses, and court decisions as well as economic and sociological studies, dailies as well as dissertations, journalistic tid-bits as well as

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treatises. It is a sort of earthly paradise for the student of dual unionism: a green pasture of lush growth in which he can contentedly graze until the rush of events requires a newer and more timely treatment. For the while, this book will do and do admirably, and when a new volume shall be required to bring this one up to date, we hope that it will be Mr. Galenson's industry and discriminating intellect that will supply it. The few blemishes of this work are not worth mentioning.—SMITH SIMPSON.

Seldom may the non-technical student of government—or, for that matter, the specialist—obtain in eighty pages of text a combined factual and policy summary such as Dr. Mabel Newcomer offers in *Taxation and Fiscal Policy* (Columbia University Press, pp. 89). Included are discussions of "Rising Cost of Government," "Tax Systems," "Tax Justice," "Competition and Coöperation among Taxing Authorities," and "Government Fiscal Policies and Business Fluctuations." And the volume as a whole gives a remarkably well selected array of factual data interwoven with a thoughtful scholar's evaluation of major fiscal policies. The combination embodies an unusual opportunity to secure an up-to-date view of government finance at one sitting. Although doubting the wisdom of certain sweeping generalizations (e.g., that "the income that should be used to measure ability is . . . the 'money value of the net accretion to one's economic power between two points of time'," p. 37); of seeming occasional indifference to administrative conditions of tax justice (e.g., p. 41); and of conclusions regarding capital gains taxes as related to business fluctuations (p. 70), I believe that most tax students will find relatively little basis for disagreement with the author. Indeed, many will agree that, at several points, *Taxation and Fiscal Policies* expresses current finance thinking more felicitously than any other book or article has yet done.—JAMES W. MARTIN.

Harold T. Howe's *The Legal Basis for Municipal Functions in Toledo* (Fostoria, Ohio: Gray Printing Company, pp. xiii, 315) is a recent addition to the literature dealing with the growth of municipal functions in a single city. The author discusses the legal authority for the various functions and activities in Toledo, Ohio, as they have appeared since the beginning of the corporate life of the city in 1837. Notwithstanding Mr. Howe's acknowledged difficulty in securing authentic records relating to certain activities, he has been thorough and has organized in a systematic manner a large amount of material taken from original sources. Numerous court decisions are cited, and judicial inconsistency in dealing with municipal powers is brought out in several chapters. Most of the book is devoted to the development of administrative functions, but there are chapters on the council, executive, judiciary, and obsolete officials and boards. The

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factual material is supplemented with criticisms and comments on trends. There are no organization charts illustrating the development of each of the activities. However, a chronological table showing the development of the city follows the concluding chapter. The book is well documented, and there is a good index. As is pointed out in the foreword by Professor O. Garfield Jones, it is only on the basis of many such detailed studies as this that an accurate history of municipal development can be written. Certainly this book should be of interest to students of local government as well as to residents and officials of Toledo.—W. V. HOLLOWAY.

In *The Presidential Vote, 1936* (Stanford University Press, pp. 91, $2.00), Edgar E. Robinson brings down to date his earlier volume, *The Presidential Vote, 1896–1932*. There are now available to students of politics and history the political statistics of eleven presidential elections, arranged in such a way as to make possible the comparative use of the two volumes. The figures are given in the same tabular form for each state, section, and county in the United States. The author displays the same assiduity and care in gathering and correcting the data for the 1936 election as he did for the ten earlier presidential elections. While it is true that the state lead determines the electoral result for each state, it is the vote in the county that emphasizes the importance of this smaller local unit in presidential elections. Professor Robinson notes that "an examination of the distribution of the votes cast in the 3,096 counties indicates that there are 568 counties in forty states in which the margin of victory in 1936 was so slight that, in view of the record of voting in these respective counties in eleven presidential years, 'fighting ground' in succeeding elections is revealed." Indeed, the pattern of voting behavior revealed by the author's tabulations cannot be ignored by those who determine presidential campaign policies. The author, in his analysis, notes the large minority cast, but his map of the 1936 election correctly shows the United States to be a two-party country. It is to be hoped that the author's *The Presidential Vote, 1940* will make an early appearance.—BELLE ZELLER.

The third edition of *The American Party System* (Macmillan Co., pp. xi, 476, $3.50), by Charles E. Merriam and Harold F. Gosnell, is a thorough revision of the second edition which appeared in 1929, and is to a greater extent a joint work of the two writers. Four chapters have been added to care for two wholly new topics and to shorten the rather lengthy chapters of the previous edition. Extensive rearrangements of material have been effected, and much that is new has been incorporated; and this, together with a more attractive format, has greatly improved this very useful treatise. There is no doubt that in some respects it is superior to other current textbooks on political parties, but whether or not it is as well-

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rounded as one or two of them may be reasonably questioned. Relatively too much space, perhaps, is still devoted to bosses, patronage, spoils, and the peculiarities of politics in large urban centers at the expense of some other topics of equal importance in a general text on American political parties. The chapters dealing with the formulation of party issues, the economic and social bases of party politics, and party leadership are excellent, but those describing nominating and electoral organization and procedure are too sketchy to be altogether satisfactory.—O. DOUGLAS WEEKS.

The South in Progress (International Publishers, pp. 256, $2.50) was undertaken at the request of the Labor Research Association by Dr. Kathryn Lumpkin, a Southern woman with a reputation for objective work in social science. The result is a condensed but comprehensive survey of current conditions in the Southern region. Dr. Lumpkin's technique in this study is frankly discursive rather than incisive, and she presents few facts not already discovered and publicized by the proselytes of Odum. She uses the empirical approach, however, not merely to present another academic appraisal, but to challenge direct action upon such problems as the sharecroppers' struggle for a decent standard of living, the emergence of the proletariat, the spread of trade unionism, the hazardous conditions of civil liberties, the cultural lags of a changing economy, the racial tensions of a mixed population, the fight against "bourbonism" in politics. Convinced that the issue between Pro-New Deal and Anti-New Deal is simply a matter of "progressive policies as opposed to reactionary policies," the author contributes a timely encomium of the program of the present Administration, but fails to lay down any "working specifications" beyond those already in the blue-prints of the New Deal.—MARIAN D. IRISH.

In contrast with preceding editions, the seventh edition of Robert E. Cushman's *Leading Constitutional Decisions* (F. S. Crofts and Co., pp. xiv, 354, $2.00) is a thorough revision. The cases which previously constituted the omnibus appendix have been either eliminated or distributed under proper headings. Of the sixty-one cases which made up the sixth edition, twenty-two have been discarded. Eleven others have been added in the new volume, which thus contains fifty cases. While there may be tears for the absence of such old friends as Hawke v. Smith, Munn v. Illinois, and Meyer v. Nebraska, drastic though somewhat arbitrary action was obviously necessary. The usual and very fine introductory notes by Professor Cushman have been retained. Teachers will continue to find this book the most useful and inexpensive work available as an introduction to the study of constitutional principles and as supplementary reading in many courses in political science.—WILLIAM O. FARBER.

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Dr. Rayford W. Logan's *The Attitude of the Southern White Press Toward Negro Suffrage, 1932–1940* (Foundation Publishers, Washington, D. C., 1940, pp. xii, 115, $0.75) will be of greater interest to those living north than to those living south of the Mason-Dixon line, for the latter will find in it little that is new to them. The editor, a professor of history in Howard University, undertook to survey thirty-six newspapers in twelve Southern states and to cull from their editorial, news, and letters-to-the-editor columns verbatim quotations representative of the Southern white man's attitude toward Negro suffrage. The pamphlet reprints about one-fourth of the items discovered, so selected as to give an accurate cross-section of opinion. While the compilation is of interest, one wishes that the editor had appraised his findings in detail; for, as it stands, we learn only that " . . . the expression of opinion reveals a continuing intolerance in the Deep South and a growing tolerance in the Border States."—HOLLIS W. BARBER.

FOREIGN GOVERNMENT AND POLITICS

In his excellent volume, *Church and State in Russia; The Last Years of the Empire, 1900–1917* (Columbia University Press, pp. ix, 442, $4.00), John Shelton Curtiss covers more history than the title indicates. A remarkable introductory chapter summarizes the history of the Orthodox Church from the introduction of Christianity into Russia in the tenth century to 1900. In his detailed analysis of the church in the latter year, he perforce also describes it as it was in the last half of the nineteenth century; for there were few changes in this conservative institution. Much attention is given to the economic position of the church and the monasteries. In his preface, Mr. Curtiss makes a clear statement as to what he does and does not deal with in the book. He makes no pretense of discussing dogma or doctrine; nor does he cover the relationship of the state to the Roman Catholic, Lutheran, Jewish, Armenian, or Moslem faiths. Yet it is clear how the laws supporting the supremacy of the Orthodox faith, notably in regard to missionary activity, registration of births, marriages etc., affected them. He does, however, deal with the position of the state and the Orthodox church toward the more native sectarians such as the Old Believers and the Stundists. The revolution of 1905 constitutes the heart of the volume. Just as that revolution gave promise of political reform which was not completely fulfilled, so it brought out the liberalism of a minority party among the clergy which was also to fall under the blight of reaction in succeeding years. The participation of the clergy in the elections of the Dumas and the action of the forty-odd clerical members is indicative of the alliance between the church and reaction in Russia. A final chapter deals with the disastrous influence of Rasputin on the government of the church. The book as a whole bears eloquent and

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constant evidence of how Orthodoxy was used to support Autocracy. Specifically, it also shows how imperative was the need for countless reforms, such as more and better educated clergy, and adequately paid parish clergy so that the heavy charges for special ministrations could be lessened or abolished, a more devout monastic system, and less civil domination through the Holy Synod with its all-powerful Over Procurator and other lay officials. Russian sources, including many archival materials, constitute the basis for this fine piece of research.—E. C. HELMREICH.

In his *Central Banking in the British Dominions* (University of Toronto Press, pp. 462, $4.00), Professor A. F. W. Plumptre presents a competent comparative study of the essentials of central banking in South Africa, Australia, New Zealand, and Canada. The author first sets up the accepted elements of central banking and comments briefly but realistically thereon. The first part of the book is devoted to an historical and analytical description of the financial institutions, capital markets, and central banks of each Dominion. Part II examines the politics of the establishment of central banking—what groups favored, what opposed, and what influence English policies had. Part III then analyzes the objectives and operations of the banks affecting the internal economies, taking, in successive chapters, interest rates and credit policies, open market operations, reserves, bank rates and re-discounting, interest contracts and published rates, and treasury bills, and carrying the analysis into such Dominion situations as are pertinent. The last part deals with objectives and operations relative to external relations: exchange rates, flow of money in and out of the country, cyclical movements in relation to exchanges, and so on. He finds that each Dominion has problems peculiarly its own, due to nature of the economy, immaturity of economy, idiosyncrasies of internal politics, and particular external relations. Central banking must adapt itself to the Dominion situation. In general, the banks have had no marked success in stabilizing exchanges—that being accomplished through other forces and institutions; nor in control of the business cycle internally—that being a highly difficult objective to accomplish or to evaluate the results of attempts. The volume went to press as the war began; what the central banks may face after it is over, Professor Plumptre naturally makes no attempt to say.—HARVEY PINNEY.

Anthropologists are continuing to add not only to the data but to the method of comparative politics. Eight essays reporting the results of a recent collaborative inquiry are published in *African Political Systems* (Oxford University Press, pp. 301, $4.00), edited by M. Fortes and E. E. Evans-Pritchard. Each of these essays is said to be a condensation of a detailed study of the political system of a single people, undertaken by the

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most advanced methods of field work by students trained in anthropological theory. The editors claim to speak for all social anthropologists when they say that a scientific study of political institutions must be inductive and comparative and aim solely at establishing the uniformities among them and their interdependencies with other features of social organization. They find that the political systems described in their book fall into two main categories: first, those societies which have "government", i.e. centralized authority, administrative machinery, and judicial institutions, and in which cleavages of wealth, privilege, and status correspond to the distribution of power and authority; second, those which lack "government," and in which there are no sharp divisions of rank, status, or wealth. In the societies of the first type, it is the administrative organization, in those of the second type, the segmentary lineage system, which primarily regulates political relations between the territorial segments. These essays contain interesting data concerning the relations between the types of political systems and the size, density, and modes of livelihood of the populations. Not the least valuable contribution of the authors is their comment on the differences in response to European rule among the various types of native political systems.—Eric Beecroft.

The Chinese Army (Inquiry Series, International Secretariat, Institute of Pacific Relations, pp. ix, 139, $1.00), by Major Evans Fordyce Carlson, recently resigned from the United States Marine Corps after several years of service in China, is a sketch of the organization of the various armies of China, together with chapters on geography, history, war finance and the military operations of 1937–39. Despite the extreme brevity of the essay, the author's contribution is one of considerable value. That contribution is the compact, lucid presentation of important data in several fields and the frank though moderate comment and criticism upon them of an expert and seasoned observer. However, the reviewer believes that social scientists would have preferred a more substantial treatment of strictly military topics. An essay by Wang Yu-chuan entitled *The Organization of a Typical Guerrilla Area in South Shantung* is printed as an "appendix" of forty-five pages. This is an important, first-hand study, by a young Chinese scholar, of the collapse of an old system of defense and the rise of a new one, with especially interesting treatment of underlying political and social changes.—Harold S. Quigley.

Intriguing as may appear the promise of a study devoted to a great—possibly the greatest—French Radical leader written by a distinguished Monarchist leader of distinguished parentage, Léon Daudet's *Clemenceau* (William Hodge and Co., Ltd., pp. 296, 12s.6d.) in reality adds little, if anything, to the stature of either subject or author. The Tiger is judged

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to have been a great man in so far as he displayed the qualities, good and bad, of French nationalism congenial to the *Action française;* whereas belief in the Revolution, in democracy, in republicanism, in parliamentary government, and the like is sorrowfully treated as among the vagaries of genius in its weak moments. Thus, this Daudet book is primarily of interest to students of political science as an illustration of a certain variety of right-wing attitude. The translation is, on the whole, unattractive; and yet some passages reach a high level and are, in spite of everything, genuinely moving.—R. K. Gooch.

INTERNATIONAL LAW AND RELATIONS

In *Japan's Case Examined; With Supplementary Chapters on the Far Eastern Policies of the United States and the Significance to the World of the Conflict in the Far East* (Johns Hopkins University Press, pp. x, 237, $2.50), Professor W. W. Willoughby reviews the course of Japanese aggression in China, sets forth the pleas of Japan in justification of this aggression, examines the validity of these pleas, traces the origin and development of the New Order in Eastern Asia, and finally compares Japan's so-called Monroe Doctrine with the American doctrine of that name. A separate chapter is devoted to evidence relating to the existence of the Tanaka Memorial; in the battle of the *pros* and *cons*, the affirmative side seems to win the decision. In conclusion, the author summarizes the Far Eastern policy of the United States and points out the international significance of the conflict in the Far East. An appendix contains eight of the principal documents in the diplomatic history of the Far East in the past decade. In many respects, this volume is a supplement to Professor Willoughby's larger work, *The Sino-Japanese Controversy and the League of Nations*, published in 1935. Students of Far Eastern politics will find particularly useful the second chapter in which the author explains, with a wealth of quotation, the Japanese pleas in abatement, including: self-defense against China, self-defense against Russia, defense against Communism, the claim of the superiority of Japanese rights over rights of other states in China, and the claim that Japan's vital interests were jeopardized by the anarchy resulting from the alleged unorganized government of China. In an attempt to uncover realities, Dr. Willoughby concludes that the invasion of China grew out of Japan's fear of a united and strong republic on the mainland of Asia. The reader will agree that on the evidence submitted the author has made a good case. To complete the record, the author might have given more specific evidence for his conclusion that "Japan's civil government is not able to control her own military forces."—Kenneth Colegrove.

The forty-fourth annual meeting of the American Academy of Political and Social Science, April 12–13, 1940, discussed the topic, "The United

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States and Durable Peace." To the seventeen addresses then delivered have been added five solicited papers, and all have been published as Volume 210 of *The Annals of the American Academy* (pp. 140, $2.00), under the title, "When War Ends." The twenty-two papers are arranged under five sub-titles—eight dealing with "Some Essentials of Lasting Peace," four with "Plans and Proposals for Peace," three with "Peace in Europe," four with "Peace in the Far East," and three with "Peace in the Americas." The authors are predominantly of this country, although contributions are made by various European and Latin American scholars as well. The list of contributors forms a brilliant collection—Rappard, Shotwell, Cassel, Viscount Cecil, Villari, Jessup, and, of course, others. In view of ignorance of the ultimate result of the war, certain of the papers constituted a bold yet intelligent sally into the great unknown. In the light of subsequent events, as the editor, Ernest Minor Patterson, admits, some of the statements made now appear rash and absurd. But, after all, 1940 has dealt roughly with other predictions! So fast have events moved that such current concerns as Canada and European possessions in the Caribbean pass almost unnoticed. As a people, we have been singularly unwilling to face certain unpleasant facts. On the whole, the authors have done their bit to direct American opinion along realistic political and economic avenues that will have to be traveled, in some vehicle or another, when war ends. As Professor Shotwell points out: "The planning of peace in war-time is surely as legitimate as the planning of war in peace-time by the general staffs." Any attempt such as this which may aid the American public honestly and wisely to face the task of living in a hitherto unknown type of world is much to be commended, even though inevitably certain predictions subsequently prove to have been ill-founded. If our people can be guided away from artificialities and unrealities, from the "hypnotizing influence of false slogans," from the notion that this is a static world, such efforts as this by the American Academy will not have been in vain.—Ivan M. Stone.

Drawing upon his fifteen years of experience as president of the Upper Silesian Arbitral Tribunal—a part of the international machinery established under the Geneva Convention of 1922 to deal with the complicated problems arising out of the partition of Upper Silesia between Germany and Poland—M. G. Kaeckenbeeck has undertaken to record some useful suggestions for those who, in future, will inevitably have to arrange for transfers of territory. These suggestions he has set forth in a concise booklet entitled *Le Règlement Conventionnel des Conséquences de Remaniements Territoriaux* (Zurich: Editions Polygraphiques S. A., pp. 67), grouping his remarks under four main headings: change of nationality and its mechanism, protection of minorities, protection of vested rights of the

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population, and the means of ensuring a proper interpretation and application of the governing treaty. Of special interest is the extraordinary degree to which, in the Upper Silesian arrangements, individuals were given a status before international agencies, particularly in matters of nationality and the protection of minority and vested rights. This is a tendency which M. Kaeckenbeeck heartily approves and recommends to future makers of treaties of cession. In general, also, he counsels reliance upon specialized and localized international machinery, rather than upon universal organs like those of the League or Permanent Court, for dealing with the problems incidental to territorial transfers. M. Kaeckenbeeck warns, however, against easy generalizations, pointing out that national characteristics, local conditions, and the character of the available administrators make every such case one calling for individual treatment rather than the application of some uniform panacea. Here is a well written book counseling slow but sure building, when the time comes, upon the experience of the past. M. Kaeckenbeeck confesses that he distrusts *"vastes et grandioses projets, tant que l'esprit général ne sera pas sincèrement empreint de bonne volonté."* And he does not look for that soon.—VALENTINE JOBST III.

Paul Einzig is well known for his numerous books on international financial conditions. In his recent volume, *World Finance, 1939–1940* (Macmillan Co., pp. 271, $2.75), he presents a further review and appraisal of international financial relations. The title of the book is more ambitious than its content, since consideration is given almost exclusively to the financial affairs of Great Britain, France, and Germany. The author suggests that for financial developments in other areas the publications of the League of Nations be consulted. A very substantial part of the volume is devoted to a consideration of political events and war policy. The British appeasement policy is discussed and attacked, as is also British economic and financial management. There are, on the other hand, many words of praise for Reynaud's financial management in France. The author deplores the lack of coördination during the early months of the war in the economic and financial policies of Britain and France. He is particularly incensed at the British internal management, charging that in many areas there was working at cross-purposes and lack of coöperation. There are a few brief chapters on Germany. Einzig has no love for the German dictatorship and thoroughly condemns Nazi philosophy and exploitation. He does, however, point out the efficiency of the economic machine under dictatorship. German success in pushing its imperialism is attributed largely to the complete disregard of the costs involved. The financial burden is borne by lowered standards of living. Einzig predicts the collapse of Germany and speaks of the victory of the democracies as

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inevitable. It is pertinent to note that his book was written prior to the German invasion of Holland, Belgium, and France. The discussion of finance is distinctly a minor part of the subject-matter covered in the book.—NATHAN L. SILVERSTEIN.

One of these days, the British government, defaulter on its World War debt to the United States, may exhaust its financial assets in the United States and desire to borrow again. In that event, "the Johnson Act, which prohibits any government in default to the United States on war debt payments in whole or in part from floating their financial obligations upon the American market," as well as the "cash" feature of the Neutrality Act of 1939, will probably be reëxamined in Congress and by the American public. Carl M. Frasure's *British Policy on War Debts and Reparations* (Dorrance and Co., 1940, pp. 188, $2.00) is a valuable contribution to that impending discussion. Relying upon diplomatic dispatches, official pronouncements, parliamentary debates, and representative newspapers and periodicals, Professor Frasure gives an excellent running account of the formation and the metamorphoses of the British policy, *vis à vis* both the United States and the Continent, from 1917 to 1940. Interplay of policy and public opinion is given *pari passu* and impartially. The author has diligently reduced intricate materials to their simple essentials, for which both layman and scholar will be grateful, and he has mercifully spared us columns of obfuscating statistics. This problem of war debts is not dead; it will probably arise again to plague us. Ironically, as the author says, it may take "another world war to cancel the debts of the last in order that more war debts may be created."—HENRY REIFF.

The political scientist will find incisive comment, but few surprises, in the second edition (May, 1940) of *Neutrality for the United States* (Yale University Press, pp. viii, 461, $3.50), by Edwin Borchard and William P. Lage. In the seventy-three additional pages (for first edition, see this REVIEW, Vol. 31, pp. 970–971), the authors examine American foreign policy of the last three years, with special attention to the Far East and to the 1939 Neutrality Law. Considerable disagreement, though not surprise, will greet a statement concerning the Nine-Power Treaty, Open Door, and Kellogg Pact: "Not one of these three instruments deserves serious consideration from an informed person." Since "political" (as distinguished from "legal") treaties are bound to be broken, any policy which seeks to discriminate against treaty-violators and aggressors receives zestful excoriation. The authors fear that the "emotional" (and quite unlegalistic) attitudes of the public may lead to American military involvement without settling the disputes which broke the peace. Among unneutral acts are listed: the extra-legal "moral embargo" against Japan

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("tantamount to an act of war," if enacted by Congress); "allegedly non-military" loans to China and Finland; and acquiescence in British financing of American munitions factories and taking of finished bombing planes. Whatever doubts the reader may entertain concerning the practicality of "collective security," he can no longer accept citation of the Scandinavian countries as demonstrating the practicality of strict neutrality, although comparison of their position with our own is scarcely justifiable—either as to 1917 or as to 1940.—H. SCHUYLER FOSTER, JR.

POLITICAL THEORY AND MISCELLANEOUS

Thomas H. Robinson and ten other members of Colgate University's School of Social Sciences, collaborating in *Men, Groups, and the Community* (Harper and Brothers, pp. xix, 965, $3.50), have written the best survey of the social sciences with which this reviewer is familiar. Selection and organization of materials for use in Colgate's survey course proceeded for ten years before the book was printed. His colleagues authorized T. H. Robinson to separate and reorganize their contributions. As a result, coherence in organization and style has been achieved to a remarkable degree. Students who have completed a survey course built around this text should have a more nearly adequate understanding of our society as an "organized 'going concern' " than is obtained by those taking the introductory courses of the separate social sciences to the extent that time, inclination, and curricular regulations permit. The narrower, more specialized approaches are less likely to convey an understanding of the essential relationships between the various phases of human behavior. *Men, Groups, and the Community*, however, has one very serious deficiency. Except for a reference to nationalism as it affects planning (pp. 928–930), there is hardly a suggestion that study of "the community" applies to an international community. The excellent chapter on communication points to a "community," as that word is flexibly used (pp. 53–55), which transcends national borders. Even war and other forms of conflict and competition between national groups evidence at least an inchoate community. If there is not an international community deserving mention, educated people should at least understand that the existence of the more narrowly-defined community will be precarious until a world community, organized under a common government and law, does come into being. Opportunities to discuss this requisite to a peaceful, orderly world are passed by in the exposition of law (pp. 32–49) and sovereignty (p. 70), while one sentence (p. 368) disposes of the most ambitious international experiment in confederacy. To deal with this disastrous shortcoming in present social organization is all the more imperative since an impressive chapter on propaganda has been included. Emphasis on this subject in recent years has tended to produce a cynical attitude among young people

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in the democratic countries. Every unpleasant fact and every appeal to perform an onerous duty are disregarded, with the excuse that they are "propaganda." Short of obviously immediate, personal danger to themselves, many of the younger, and some of the older, presumably intelligent citizens of a democracy cannot be reached by an appeal for united action, until it is perhaps too late for effective measures. Perhaps if the need for an international government and a system of law binding upon "men, groups, and" the less-inclusive communities is made clear to educated citizens, the United States will not shirk its international responsibilities and will subordinate its "sovereignty" to a world order which must some day again be built. If limited space is urged as the reason for omitting a discussion of the international aspects of social behavior, the description of the Haidas (pp. 55–61) could be dropped, and the next nine pages on the medieval manor might be shortened.—HOWARD WHITE.

The title, *Contemporary Juristic Theory*, which Roscoe Pound has given to a recent collection of lectures (Claremont Colleges, pp. viii, 83, $1.50) is somewhat more comprehensive than the book's actual contents. In the main, the volume contains a discussion of the "Realistic School" of jurisprudence and the alleged consequences of its doctrine in the realm of politics. Unlike most of the author's earlier writings, this book emphasizes not so much the creative function of the lawyer, as against analytical jurisprudence, metaphysical law of nature, etc., but jural stability and the legal norm as against the individualizing tendencies of the Realists. Pound charges that under the influence of relativistic "give-it-up philosophies" this juristic skepticism has actually resulted in political absolutism, exercised by administrative agencies which assume the wisdom of Plato's philosopher-king. Its danger, it is said, should be apparent from phenomena like totalitarianism. Even supposing that "absolutism" is the practical consequence of Realist thinking, is not this an *argumentum ad hominem?* True, if the science of law is a science of Ought, as Pound affirms, the "practical" result is indeed the only measure of its "truth." But many will prefer judging Realism and corresponding Continental doctrines by their ability to describe "what is." As to Pound's familiar thesis that "reason" delivers the criterion of choice and that "engineering" thought always finds a compromise in cases of social conflict, so much has been said against over-optimistic liberal assumptions that it is almost refreshing to find them here restated with so much clarity: "There has been constantly increasing system and order and objectivity"! But, after all, there sometimes *are* situations in which compromise and juridical logic can find a way out.—JOHN H. HERZ.

The Second Imperialist War (International Publishers, pp. viii, 309, $2.75), by Earl Browder, Communist candidate for president of the

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United States, is essentially a campaign document for the Communist party. The title of the book is incidental, except for those chapters which discuss the present war; and even then the discussion is concerned primarily with an exposition of Communism. The volume is a collection of speeches and articles written during 1939 and early 1940. With an emphasis upon the Russian government as providing the ideal situation for all men, the author bitterly attacks the policies of all other countries as tending to lead to wars of imperialism which enrich the few at the expense of the many. Mr. Browder has little to say, however, about Russia's invasion of Finland, which he justifies on the basis that the Allies intended to attack Russia through the Baltic states. For him, the Russo-German pact of 1939 is easily explained. Years of bitter charges and countercharges between the Russian and German governments are brushed aside, because the "Soviet-German Pact is a big step" in the application of a policy which proposes to "make peace profitable and war unprofitable." Mr. Browder says further that Russia made the agreement with Germany only after Neville Chamberlain refused a Soviet offer of a "system of organized collective security." For an American foreign policy, the author proposes closer relations with the Soviet Union to combat Japan in the Far East. Otherwise, Mr. Browder says, Japan will soon transform "all Eastern Asia into its closed preserve." Again we must say that for an exposition of the principles of Communism, this book serves its purpose. But for an understanding of the causes of the "Second Imperialist War," it leaves much to be desired.—CARL M. FRASURE.

With one nation after another falling before the onrush of fascism, with a pathetic faith in salvation through brutality reigning from Moscow to the Mediterranean, American democracy is faced with one of the greatest challenges of its history. The Living Thoughts Library, by presenting John Dewey's *Thomas Jefferson* (Longmans, Green and Co., pp. 173, $1.00) and John Dos Passos' *Tom Paine* (Longmans, Green and Co., pp. 184, $1.00), has performed a real service, therefore, in reminding us that faith in the common man is an essential part of the American tradition. Both books have a short biographical sketch, followed by selections from the writings of the two great democrats—Jefferson and Paine. The selections from Paine include parts of *Common Sense, The American Crisis, Rights of Man, Agrarian Justice,* and *Letters to the National Intelligencer;* while the selections from Jefferson are drawn from his letters and papers. The selections in both cases are, for the most part, well chosen and well arranged and give the reader a taste of our early democratic thought. Some students of Paine and Jefferson will, of course, think of additional selections that might well have been included, and in some cases will think that better selections might have been made. But, given the purpose of

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the books and their consequent brevity, the job is very well done. Certainly those who fear the impact of fascist successes abroad upon American politics owe thanks to the Living Thoughts Library for making easily available to the average student and layman these evidences of America's long confidence that "the majority of the plain people will, day in and day out, make fewer mistakes governing themselves than any smaller class or body of men will make in trying to govern them."—E. M. KIRKPATRICK.

The Brookings Institution enters the fray between the supporters of the "maturity" of the United States economy and the opponents of that view. In the volume, *Capital Expansion, Employment, and Economic Stability*, by Harold G. Moulton, George W. Edwards, James D. Magee, and Cleona Lewis (Brookings Institution, pp. xv, 413, $3.50), that Institution presents a vigorous and closely reasoned attack on the "maturity" theory. The book is filled with tables, appendices supporting the tables, and some three hundred pages of commentary. The argument is a delight in its clear presentation of the point of view, and the data assembled are essential components of the whole debate and therefore valuable in themselves. Political scientists would benefit by mastering the materials here collected, for they are the context in which public policy in the investment field operates. The book is divided into two parts. The first analyzes investment trends and capital requirements; the second presents the impact of regulation, taxation, and public credit operations on investment trends. The criticisms of New Deal policies are eclectic and careful.—CHARLES B. HAGAN.

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RECENT PUBLICATIONS OF POLITICAL INTEREST
BOOKS AND PERIODICALS

CLYDE F. SNIDER

University of Illinois

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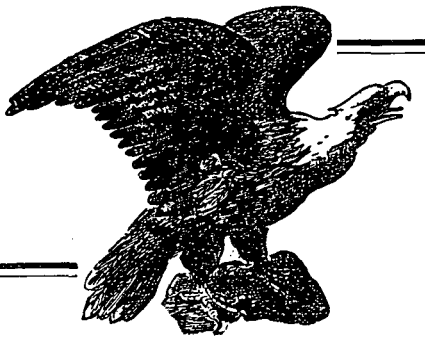

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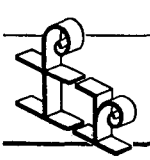

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